

THE BENGAL REGULATIONS,
THE ACTS OF THE GOVERNOR-GENERAL
IN COUNCIL,

AND

THE FRONTIER REGULATIONS

MADE UNDER THE THIRTY-THIRD OF VICTORIA, CHAPTER THREE,

APPLICABLE TO THE PUNJAB,

WITH NOTES AND AN INDEX,

BY

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OF THE INNER TEMPLE, BARRISTER-AT-LAW.

Fourth Edition,—1834-1888.

IN 3 VOLS.

VOL. I.

CONTAINING BENGAL REGULATIONS, AND
ACTS FROM 1834 TO END OF 1872.

Lahore ;

PRINTED AND PUBLISHED BY W. BALL & Co.,

SUCCESSOR TO THE PUNJAB PRINTING COMPANY.

1889.

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PREFACE TO THE FOURTH EDITION.

THIS edition of the legislative enactments in force in the Punjab (the two first volumes of which are now being issued) will, when the third volume is published, be found to be complete in all respects up to the end of 1888 ; and with the aid of an Appendix containing the Acts of the legislature published during 1889 before the issue of the final volume, together with such rules, notifications, &c., as have been issued too late to be inserted in their proper places under the Acts to which they refer, will be practically complete up to the date of publication of the third volume. The Codes of Civil and Criminal Procedure, the Penal Code, and all Acts amending those Codes, are omitted, as in former editions : as also a few other Acts in force throughout British India, but which, owing to the subjects with which they deal, are seldom referred to by Judicial Officers in this province. If doubts are at any time entertained as to the applicability to the Punjab of any unrepealed Act not included in this collection, the matter can always be set at rest by a reference to the fourth column of the Chronological Table of Acts prefixed to the first volume. The work of preparing this edition for, and passing it through, the Press has been more than ordinarily onerous, and the Editor cannot venture to hope that the compilation is altogether free from errors and omissions. He will therefore be grateful to Judicial Officers and others into whose hands these volumes may come, if they will call his attention to any shortcomings that may come to their notice, with a view to the correction of the same in future editions.

March 1889.

H. T. R.

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1834	I	Governor-General ...	General ...	Rep., VIII of 1868.
	II	Secretaries to Government	General ...	
1835	I	Governor of Madras ...	Madras ...	Rep., VIII of 1868.
	II	Assam, Arrakan, Tenasserim	Assam, &c. ...	Rep., as to Arrakan and Tenasserim, XII of 1862.
	III	Claims under certain Regulations.	Ceded and Conquered Provinces.	Rep., VIII of 1868.
	IV	Justices of the Peace, Calcutta.	Calcutta ...	Rep., VIII of 1863.
	V	District Munsifs, Madras ...	Madras ...	Rep., VIII of 1868.
	VI	Khási Hills and Cachar ...	Khási Hills and Cachar.	Rep., as to Khási Hills, XXII of 1869, Sec. 3.
	VII	Sessions Judges ...	Presidencies of Fort William & Agra.	Rep., VIII of 1868.
	VIII	Sales in Satisfaction of Decrees for Rent. ...	Bengal ...	Rep., XVI of 1874.
	IX	Salt Chaukis, Bengal ...	Do. ...	Rep., Bengal Act VII of 1864.
	X	Proof of Acts of Governor-General in Council. ...	General ...	Rep., II of 1855.
	XI	Printing-presses ...	Territories of the E. I. Company.	Rep., XXV of 1867, Sec. 2.
	XII	Repealing Mad. Reg. IV, 1829, and IV, 1830.	Madras ...	Rep., VIII of 1868.
	XIII	S. F. Adálat, Bombay ...	Bombay ...	Rep., XVII of 1862.
	XIV	Magistrates, Bombay ...	Do. ...	Rep., VIII of 1868.
	XV	Evidence : Contempt : Perjury : Madras.	Madras ...	Rep., XVII of 1862.
	XVI	Partial repeal of Ben. Reg. V, 1830, S. 2.	Bengal ...	Rep., VIII of 1868.

Year.	Number.	Subject-matter.	Extent of operation.	How repealed or otherwise determined.
1835	XVII	Silver and Gold Coinage ...	Territories of the E. I. Company.	Rep., XXIII of 1870.
	XVIII	Chaprâses ...	Bengal ...	Rep., XVII of 1862.
	XIX	Assistant to Agent for Sardârs in Deccan.	Bombay ...	
	XX	Police, Bombay ...	Do. ...	Rep., XVII of 1862.
	XXI	Copper Coinage ...	Presidency of Bengal.	Rep., XIII of 1862.
1836	I	Light-house Funds, Cambay	Bombay ...	Rep., XVII of 1868.
	II	Customs-duties, Bombay...	Do. ...	Rep., VIII of 1868.
	III	Cattle-duty, Salsette ...	Do. ...	Rep., VIII of 1868.
	IV	Insolvent Debtors ...	General ...	Rep., VIII of 1868.
	V	Enforcement of Decrees, Bengal.	Presidency of Fort William, Bengal	Rep., VIII of 1868.
	VI	Prisoners under Mad. Reg. III, 1802, S. 22.	Madras ...	Rep., XVII of 1862.
	VII	Municipal Taxes, Bombay	Bombay ...	Rep., VIII of 1868.
	VIII	Principal Sadr Amins, &c., Bengal.	Presidency of Bengal.	Rep., XII of 1873.
	IX	Oaths ...	General ...	Rep., X of 1873.
	X	Indigo Contracts, Lower Provinces and N.-W. Provinces.	Bengal ...	Rep., in part, VIII of 1868. XIV of 1870. XVI of 1874.
	XI	Non-exemption from Jurisdiction of certain Courts.	Territories of the E. I. Company.	Rep., VIII of 1868.
	XII	Decrees of Nawâb of Farakhâbâd.	Farakhâbâd ...	Rep., XIII of 1860.
	XIII	Sicca Rupees : Pice ...	General ...	Rep., VIII of 1868.
	XIV	Customs-duties, Bengal ...	Presidency of Bengal.	Rep., XIII of 1871.
	XV	Sabâthu ...	Sabâthu ...	Rep., XXXII of 1850.
	XVI	Vakil in Addl. Govt. Commissioner's Office, Madras.	Madras ...	Rep., VIII of 1868.
	XVII	Begum Samru ...	General ...	Rep., VIII of 1868.
	XVIII	Bhore Ghât Toll ...	Bombay ...	Rep., II of 1837.
	XIX	Bank of Bengal ..	Bengal ...	Rep., VIII of 1868.
	XX	Batwâras, Lower Provinces	Do. ...	Rep., Beng. Act VIII of 1876.

Year.	Number.	Subject-matter.	Extent of operation.	How repealed or otherwise determined.
1836	XXI	Zillas, Lower Provinces and N. W.-Provinces.	Presidency of Bengal.	Rep., XVII of 1887.
	XXII	Eastern Canal Tolls, Lower Provinces.	Bengal	Rep., XII of 1873.
	XXIII	Gumsur and Suráda Zamin-dáris.	Madras	Rep., XXIV of 1839.
	XXIV	Judicial Officers, Madras and Bombay.	Madras & Bombay	Rep., VIII of 1868.
	XXV	Warehousing Ports	General	Rep., XII of 1873.
	XXVI	Governor-General's Camp Police.	British India, except the Scheduled Districts	Rep., in part, XVI of 1874.
	XXVII	Vakils, Madras	Madras	Rep., XI of 1864.
	XXVIII	Municipal Assessments, Madras.	Do.	Rep., XXVI of 1856.
	XXIX	Sadr Amins, Madras	Do.	Rep., VIII of 1863.
	XXX	Thugs... ..	Territories of the E. I. Company.	Rep., XVII of 1862.
	XXXI	Government Grants, Madras	Madras	Rep., XXIII of 1871.
	XXXII	Import and Export of Sugar	Presidency of Fort William, Bengal.	Rep., XIX of 1854.
1837	I	Justices of the Peace, Calcutta	Calcutta	Rep., VIII of 1838.
	II	Bhore Ghat Tolls, Bombay...	Bombay	Rep., VIII of 1851.
	III	Transfer of Suits, Bengal...	Presidency of Fort William, Bengal,	Rep., XVI of 1874.
	IV	Property in land	British India, except the Scheduled Districts,	Rep. in part, XVI of 1874.
	V	Native Emigrants... ..	Presidency of Fort William, Bengal	Rep., XIV of 1839.
	VI	Malguzars, Katak	Katak {	Rep. in part, XIV of 1870 XVI of 1874.
	VII	Charter Courts; Pardons ...	Courts established by Royal Charter,	Rep., V of 1871.
	VIII	Anjengo and Changanacherry, Madras.	Madras	Rep., III of 1838.
	IX	Succession to Parsis' Immoveable Property.	General	Rep., VIII of 1863.
	X	Claims to Lands, Straits Settlements.	Straits Settlements	

Year.	Number.	Subject-matter.	Extent of operation.	How repealed or otherwise determined.
1837	XI	Repealing Bom. Reg. I, 1820, in part.	Bombay	Rep., VIII of 1868.
	XII	Incombustible Roofs, Calcutta.	Calcutta	Rep., XIV of 1856.
	XIII	Courts Martial	Bombay	Rep., VIII of 1868.
	XIV	Foreign Bottoms	Territories of the E. I. Company,	Rep., VIII of 1868.
	XV	Chaukidari Assessment ...	Presidency of Fort William, Bengal.	Rep., XX of 1856.
	XVI	Customs	Presidency of Fort William, Bengal.	Rep., XII of 1873.
	XVII	Post office	Territories of the E. I. Company.	Rep., XVII of 1854.
	XVIII	Thugs	Ditto	Rep., XVII of 1862.
	XIX	Competence of Witnesses ...	Ditto	Rep., VIII of 1868.
	XX	Immoveable Property, Straits Settlements.	Straits Settlements	
	XXI	Office Oaths & Declarations	General	Rep., X of 1873.
	XXII	Revenue Offences Madras Collectorate,	Madras	Rep., XVI of 1874.
	XXIII	P. S. Amins, Madras ...	Do.	Rep., XVII of 1862.
	XXIV	Police, Bengal	Bengal and N.-W. Provinces ...	Rep., VIII of 1868.
	XXV	Judiciary system, Bengal ...	Presidy. of Bengal	Rep., XII of 1873.
	XXVI	Governor-General	General	Rep., VIII of 1868.
	XXVII	Salt-duties, Bombay... ..	Bombay	Rep., Bombay Act VII of 1873.
	XXVIII	Repeals Bong. Reg. X, 1820, in part.	Bengal	Rep., VIII of 1868.
	XXIX	Language of Judicial and Revenue Proceedings.	General	Rep., XVI of 1874.
	XXX	Police Amins, Madras ...	Madras	Rep., XVII of 1862.
	XXXI	Coinage	Territories of the E. I. Company ...	Rep., XIII of 1862.
	XXXII	Emigration	Ditto	Rep., XIV of 1839.
	XXXIII	Heads of District Police, Madras.	Madras	Rep., XVI of 1862.
	XXXIV	Judiciary system, Madras ...	Do.	Rep., VIII of 1868.
	XXXV	Decrees, Madras	Do.	Rep., X of 1861.

Year.	Number.	Subject-matter.	Extent of operation.	How repealed or otherwise determined.
1837	XXXVI	Criminal Jurisdiction, Madras. }	Madras ...	Rep. in part, XIV of 1870, XVI of 1874.
	XXXVII	Political Offences, Bombay	Bombay ...	Rep., XVII of 1862.
	XXXVIII	Local Agents, Beng. Reg. XIX, 1810.	Bengal ...	Rep., VIII of 1868.
1838	I	Customs, Bombay ...	Bombay ...	Rep., I of 1852.
	II	Salt, N.-W. Provinces ...	N.-W. Provinces ...	Rep., XIV of 1843.
		Joint Criminal Judge, Cochin	Madras ...	Rep., XVII of 1862.
	IV	Perjury, Sadr Diwani Adalat, Bombay.	Bombay ...	Rep., VIII of 1868.
	V	Bengal Bonded Warehouse,	Presidency of Fort William, Bengal.	Rep. in part, V of 1854.
	VI	Enquiries into charges against Public Servants, Bombay.	Bombay ...	Rep., XXXVII of 1850.
	VII	Zilla Judges, Bengal ...	Presidency of Fort William, Bengal.	Rep., XVI of 1874.
	VIII	Bhore Ghat Tolls ...	Bombay ...	Rep., VIII of 1851.
	IX	Fines, Bombay ...	Do. ...	Rep., XVII of 1862.
	X	Kumaon ...	N.-W. Provinces ...	Rep., XV of 1874.
	XI	Remuneration of Amins effecting Partitions. }	Bengal and N.-W. Provinces. }	Rep., locally, XIX of 1863; in part, XIV of 1870.
	XII	Hidden Treasure, Madras...	Madras ...	Rep. in part, XVI of 1874.
	XIII	Power to extend Bengal Regulation XII of 1833. }	Bengal & N.-W. Provinces. }	Rep., I of 1846.
	XIV	Ganja and Bhang, Madras...	Madras ...	Rep., VIII of 1868.
	XV	Repeal of Bombay Regulation XII, 1827, in part.	Bombay ...	Rep., VIII of 1868.
	XVI	Suits, Bombay ... }	Do. ... }	Rep. in part, XIV of 1870; XVI of 1874; Bom. Act II 1866.
	XVII	Appeals from Munsiffs, Madras.	Madras ...	Rep., X of 1861.
	XVIII	Sureties, Bombay ...	Bombay ...	Rep. in part, XVI of 1874
	XIX	Coasting Vessels, Bombay }	Do. ... }	Rep. in part, XIV of 1870 XVI of 1874
	XX	Post Office ...	Territories of the E. I. Company.	Rep., XVII of 1864.
	XXI	Silver Coinage ...	Ditto ...	Rep., XIII of 1862.

Year.	Number.	Subject-matter.	Extent of operation.	How repealed or otherwise determined.
1838	XXII	Appeals from Munsiffs, Bengal.	Presidency of Fort William Bengal,	Rep., XVI of 1874.
	XXIII	Repeal of Madras Regulation IV, 1821, in part.	Madras	Rep., XXIII of 1871.
	XXIV	Bank of Bengal	Bengal	Rep., VIII of 1868.
	XXV	Wills made between 1st February 1839 and 1st January 1866.	British India except the Scheduled Districts.	Rep. (except as to certain wills), VIII of 1868.
	XXVI	Principal Sadr Amins, Madras.	Madras	Rep., XVII of 1862.
	XXVII	Judiciary, Bengal	Presidency of Fort William, Bengal.	Rep., X of 1861.
	XXVIII	Perjury, Supreme Courts ...	Supreme Courts...	Rep., VIII of 1868.
	XXIX	Salt, Lower Provinces ...	Bengal	Rep., XII of 1876.
	XXX	Registry of Deeds, Bengal...	Presidency of Bengal	Rep., XVI of 1861.
	XXXI	Criminal Law, Supreme Courts.	Supreme Courts...	Rep., X of 1875.
	XXXII	Justices of the Peace, Bengal	Presidency of Bengal.	Rep., XII of 1873.
1839	I	Sale of Distresses, Bengal...	Ditto	Rep., X of 1859.
	II	Fines by Magistrates ...	General	Rep., XVII of 1862.
	III	Revenue Courts and Munsiffs	Territories of the E. I. Company.	Rep. VIII of 1868.
	IV	Theft of Trees, &c., Straits Settlements.	Straits Settlements	
	V	Search Warrants, Straits Settlements.	Ditto	Rep., XIV of 1851.
	VI	Bank of Bengal	Bengal	Rep., IV of 1862.
	VII	Tahsildars, Madras ... {	Madras {	Rep. in part, XIV of 1870; XII of 1873
	VIII	Jagir of Chinochni, Bombay,	Bombay	Rep., XV of 1874.
	IX	Pauper Suits, Bengal ...	Presidency of Fort William, Bengal,	Rep., XVI of 1874.
	X	War against Allied States, Straits Settlements.	Straits Settlements	
	XI	Appeals to Queen in Council,	Territories of the E. I. Company.	Rep., VIII of 1868.

Year.	Number.	Subject-matter.	Extent of operation.	How repealed or otherwise determined.
1839	XII	Assessments and Taxes, Straits Settlements.	Straits Settlements	Rep.; IX of 1848.
	XIII	Port dues, Madras... ..	Madras	Rep., XII of 1875.
	XIV	Emigration	Territories of the E. I. Company.	Rep., XIII of 1864.
	XV	Importation of Foreign Sugar, Madras.	Madras	Rep., XIX of 1854.
	XVI	Government Rents, Straits Settlements.	Straits Settlements	
	XVII	Post Office	Territories of the E. I. Company.	Rep., XVII of 1854.
	XVIII	Thugs	General	Rep., XVII of 1862.
	XIX	Sentences of Imprisonment, Bombay.	Bombay	Rep., XVII of 1862.
	XX	Levy of Hakks, Bombay ...	Bombay	Rep. in part, XVI of 1874.
	XXI	Petty Offences, Calcutta ...	Calcutta	Rep., XIII of 1856.
	XXII	Prisoners' Counsel, &c., } Supreme Court. }	Territories of the E. I. Company.	Rep., X of 1875.
	XXIII	Courts Martial	Ditto	Rep., XXIX of 1861.
	XXIV	Ganjam and Vizagapatam <	Madras	Rep. in part, XIV of 1870 ; XVI of 1874 ; Madras Act I of 1865.
	XXV	Powers of Collectors, Bombay.	Bombay	Rep., VIII of 1868.
	XXVI	Public Officers, Bengal ...	Presidency of Fort William, Bengal.	Rep., XXXVII of 1850.
	XXVII	Execution of Decrees of Judge of 24-Parganas.	Calcutta	
	XXVIII	Buildings in Bombay and Colaba.	Bombay	Rep., VI of 1857.
	XXIX	Dower	British India, except the Scheduled Districts.	Rep. (except as to certain marriages), VIII of 1868.
	XXX	Inheritance... ..	Ditto	Rep. (except as to certain descents), VIII of 1868.
	XXXI	Injuries to Coin	Places over which the Criminal jurisdiction of the Supreme Courts extended.	Rep., VIII of 1868.

Year.	Number.	Subject-matter.	Extent of operation.	How repealed or otherwise determined.
1839	XXXII	Interest	British India, except the Scheduled Districts.	
1840	I	Foujdari Adalat, Madras ...	Madras	Rep., XVII of 1862.
	II	Courts Martial	General	Rep., XXIX of 1861.
	III	Bank of Bengal	Bombay	Rep., Bom. Act X of 1863.
	IV	Affrays, Bengal	Presidency of Fort William, Bengal	Rep., XVII of 1862.
	V	Oaths	Territories of the E. I. Company.	Rep., X of 1873.
	VI	Bills of Exchange	British India except the Scheduled Districts ...	Rep., XXVI of 1881.
	VII	Deputy and Assistant Registrars to Sadr Courts, Bengal,	Bengal and N.-W. Provinces.	Rep., VIII of 1868.
	VIII	Fanchayats, Madras ...	Madras	
	IX	Arbitrations, Damages, Witnesses : Supreme Courts.	Territories of the E. I. Company.	Rep., X of 1877.
	X	Temple of Jagannath ...	Bengal	Rep., in part, VIII of 1868; XVI of 1874; XIV of 1882.
	XI	Criminal Law, Bombay ...	Bombay	Rep., Bom. Act IV of 1865.
	XII	Extending Act XII of 1839 to Straits Settlements.	Straits Settlements	Rep., IX of 1848.
	XIII	Factors	Territories of the E. I. Company.	Rep., IX of 1872.
	XIV	Extending 9 Geo. IV, c. 14	Ditto	Rep., IX of 1872.
	XV	Agents of Foreign Sovereigns, Bombay.	Bombay	Rep., in part, XVI of 1874.
	XVI	Transported Convicts ...	Territories of the E. I. Company.	Rep., V of 1871.
	XVII	Salt Laws, Madras ... }	Madras }	Rep., locally, Madras Act VI of 1871; in part, XVI of 1874.
	XVIII	Licenses for sale of Liquor, Bombay.	Bombay	Rep., XIII of 1856.
	XIX	Appeals by Paupers ...	Presidency of Fort William, Bengal.	Rep., XVI of 1874.
	XX	Revenue sales	Bengal	Rep., VIII of 1868.

Year.	Number.	Subject-matter.	Extent of operation.	How repealed or otherwise determined.
1840	XXI	Suits under Bengal Regulation XLIX of 1793 ...	Presidency of Fort William, Bengal.	Rep., VIII of 1868.
	XXII	Vagrants, Presidency Towns	Presidency Towns.	Rep., XIII of 1856.
	XXIII	Execution in Presidency Towns of Mofussil Process, {	Territories of the { E. I. Company }	Rep., X of 1877. X of 1882.
	XXIV	Municipal Rates, Calcutta...	Calcutta ...	Rep., XVI of 1847.
	XXV	Abkari, Bengal	Presidency of Fort William, Bengal	Rep., XXI of 1856.
1841	I	Pattidari Estates, Bengal ...	Ditto ...	Rep., XVI of 1874.
	II	Ganja and Bhang, Bombay	Bombay ...	Rep., XXXIV of 1857.
	III	Petty Offences, Bombay Town	Ditto	Rep., XIII of 1856.
	IV	Public Conveyances, Bombay Town	{ Ditto }	Rep., Bombay Act VI of 1863, Sec. 33.
	V	Trials for State Offences ...	General	Rep., X of 1872.
	VI	Import of Rum, Bengal ...	Presidency of Fort William, Bengal.	Rep., VI of 1863.
	VII	Evidence	Territories of the E. I. Company	Rep., XVI of 1874.
	VIII	Interpleader	Ditto ...	Rep., X of 1877,
	IX	Abkari, Bengal	Presidency of Fort William, Bengal.	Rep., XXI of 1856.
	X	Registry of Ships ... {	British India except the Scheduled Districts ... {	Rep., in part XI of 1850. XIV of 1870; IV of 1875, Sec. 30. V of 1883.
	XI	Military Courts of Requests	Ditto ...	Rep., VIII of 1887.
	XII	Sales of Land for Revenue arrears {	Provinces of Bengal, Behar, Orissá, &c., Benares & Ceded and Conquered Provinces subject to the Genl. Regs. {	Rep. in part, I of 1845; XIV of 1870; XVI of 1874; Rep. locally, XIX of 1873, XVIII of 1881.

Year.	Number.	Subject-matter.	Extent of operation.	How repealed or otherwise determined.
1841	XIII	Explaining Act XXV of 1836	General	Rep., XII of 1873.
	XIV	Markets, Bombay Town ...	Bombay	Rep., XIV of 1856.
	XV	Repealing Ben. Reg. IX, 1819 S. 7	Calcutta	Rep., VIII of 1868.
	XVI	Oaths of Justices of the peace	General	Rep., II of 1869.
	XVII	Appeals, Bengal ...	Presidency of Fort William, Bengal.	Rep., XII of 1873.
	XVIII	Export of Military Stores	British India, except the Sched. Dists.	Rep., XI of 1878.
	XIX	Wrongful Possession in case of Successions	Ditto	Rep., in part, VIII of 1855 S. 13 XVI of 1874. XII of 1876.
	XX	Collection of Debts on Successions	General	Rep., XXVII of 1860.
	XXI	Local Nuisances ...	Ditto	Rep., XVII of 1862.
	XXII	Municipal Rates, Madras Town.	Madras	Rep., XXVI of 1856.
	XXIII	Import of Rum, Madras ...	Madras	Rep., VI of 1863.
	XXIV	Illusory Appointments : Infants' Property	Territories of the E. I. Company. }	Rep., in part, XXVII of 1866; VIII of 1868 ; XVI of 1874.
	XXV	Contempts in Equity ...	H. M.'s Supreme Courts	Rep., VIII of 1868.
	XXVI	Extending 3 & 4 Wm. IV. C. 42	General	Rep., X of 1877.
	XXVII	Unclaimed Dividends on Insolvents' Estates ...	H. M.'s Supreme Courts	Rep., in part, VIII of 1868, XVI of 1874.
	XXVIII	Extending Act XXIII of 1839 to Camp-followers ...	Territories of the E. I. Company.	Rep., XXIX of 1861.
	XXIX	Dismissal of Suits and appeals, Bengal and Madras,	Bengal and Madras	Rep., XII of 1873.
	XXX	Obstructions to Justice ..	Territories of the E. I. Company.	Rep., VIII of 1868.
	XXXI	Criminal Appeals, Bengal	Bengal	Rep., XVII of 1862.
1842	I	Sale of Opium, Calcutta ...	Calcutta	Rep., XI of 1849.
	II	Governor-General... ..	General	Rep., VIII of 1868.
	III	Extending Act XXI of 1839	Calcutta	Rep., XIII of 1856.
	IV	Boat Regs., Madras Roads	Madras	Rep., in part, XVI of 1874. Sec. too, Madras Act IV. of 1869, and I of 1877.

Year.	Number.	Subject-matter.	Extent of operation.	How repealed or otherwise determined.
1842	V	Sale of Spirits, Bombay Town	Bombay ... {	Rep., Bombay Act IX of 1867.
	VI	Napani Jagir	Ditto ...	Rep., XV of 1874.
	VII	Repealing Ben. Reg. XIX, 1797, S. 5, and IV, 1803.	Bengal ...	Rep., VIII of 1868.
	VIII	Sadr Courts	General ...	Rep., XVII of 1862.
	IX	Extending 4 & 5 Vic. c 21 {	British India except the Sched. Dists.	Rep., IV of 1852 in territories to which Act extends.
	X	Municipalities, Bengal ...	Presidency of Fort William, Bengal.	Rep., XXVI of 1850.
	XI	Foreign Sugar	Bengal & Madras.	Rep., XIX of 1854.
	XII	Military Bazzars ... {	British India except the Sched. Districts.	Rep., VIII of 1837.
	XIII	Revenue, Bombay	Bombay ... {	Rep., Bombay Act V of 1879.
	XIV	Nuisances, Bombay Town	Bombay Town ...	Rep., XIV of 1856.
	XV	Emigration	Territories of the E. I. Company.	Rep., XIII of 1864.
	XVI	Leases, Bengal	Bengal ...	Rep., VIII of 1868.
	XVII	Revenue Commrs., Bombay	Bombay ... {	Rep. in part, XIV of 1870. Residue Rep. by Bombay Act V of 1879.
	XVIII	Revenue, Bombay	Ditto ...	Rep., XVII of 1862.
1843	I	Registration of Instruments	Bengal, Madras and Bombay.	Rep., XVI of 1864.
	II	Appeals to Sadr Diwani Adalat, Bengal.	Bengal ...	Rep., XVI of 1874.
	III	Special Appeals	Bengal, Madras and Bombay.	Rep., XVI of 1853.
	IV	Appeals from Convictions...	General ...	Rep., XVII of 1862.
	V	Slavery	British India, except the Sched. Dts.	Rep. in part, XVI of 1874.
	VI	Amins and Munsiffs, Bengal	Presidency of Fort William, Bengal.	Rep., XII of 1873.
	VII	Courts, Madras	Madras ... {	Rep. in part III of 1873. „ the rest, XII of 1873.
	VIII	Provincial Courts of Appeal, Madras.	Ditto ...	Rep., VIII of 1868.
	IX	Bank of Madras	Ditto ...	Rep., Madras Act V of 1862.
	X	Karnal and Banganapalleo	Ditto ...	Rep., XXIII of 1858.

Year.	Number.	Subject-matter.	Extent of operation.	How repealed or otherwise determined.
1843	XI	Hereditary Officers, Bombay	Bombay ... }	Rep., Bombay Act III of 1874.
	XII	Judicial Language ...	Territories of the E. I. Company.	Rep., XVI of 1874.
	XIII	Conduct of Public Officers, Madras.	Madras ...	Rep., XXXVII of 1850.
	XIV	Inland Customs, N. W. Provinces.	N. W. Provinces.	Rep., VIII of 1875.
	XV	Deputy Magistrates, Deputy Collectors.	Bengal and N. W. Provinces.	Rep., XII of 1873.
	XVI	Repeal in part, of Ben. Reg. IX of 1808 and XVI of 1810	Bengal ...	Rep., VIII of 1868.
	XVII	Official Trustee ...	Territories of the E. I. Company.	Rep., XVII of 1864 (except as to trusts vested under it).
	XVIII	Thugs and Dacoits ...	Ditto.	Rep., VIII of 1863.
	XIX	Registration of certain deeds	Bengal, Madras, and Bombay.	Rep., XVI of 1864.
	XX	Governor-General ...	General ...	Rep., VIII of 1868.
	XXI	Emigration ...	Territories of the E. I. Company.	Rep., XIII of 1864.
	XXII	Repeal, in part, of Ben. Reg. III of 1793.	Twenty-Four Paraganahs.	Rep., VIII of 1868.
	XXIII	Zila Courts in Ceded Provinces.	Presidency of Bengal.	Rep., VIII of 1868.
	XXIV	Dacoity ...	Territories of the E. I. Company,	Rep., XVII of 1862.
	XXV	Applying 5 & 6 Vic. c. 47, s. 11	Ditto.	Rep., XII of 1873.
1844	I	Nawab of Carnatic ...	Madras ...	Rep., VIII of 1863.
	II	Appeals to Queen in Council	Bengal, Madras and N. W. Provinces	Rep., VI of 1874.
	III	Corporal Punishment ...	General ...	Rep., XVII of 1862.
	IV	Repeal of Ben. Reg. IX of 1808.	Bengal ...	Rep., VIII of 1868.
	V	Private Lotteries ...	Territories of the E. I. Company.	Rep., XXVII of 1870.
	VI	Transit and other Duties, Salt, Madras.	Madras ...	Rep., in part, — VII of 1859; XXIII of 1859; VI of 1863; XIX of 1866; XXXIV of 1867; VIII of 1863; XI of 1869; XXIV of 1869; XIII of 1871; XVI of 1874; XVIII of 1877.

Year.	Number.	Subject-matter.	Extent of operation.	How repealed or otherwise determined.
1844	VII	Competence of Witnesses...	H. M.'s Courts of Justice.	Rep., VIII of 1868.
	VIII	Native Military Convicts...	Territories of the E. I. Company.	Rep., VII of 1850.
	IX	Principal Sadr Amins and Sadr Amins. }	Presidencies of Bengal, Madras and Bombay.	Rep., XII of 1873.
	X	Sentences for Murder ...	Territories of the E. I. Company.	Rep., VIII of 1868.
	XI	Supreme Court, Fort William	Supreme Court, Calcutta.	Rep., XIV of 1870.
	XII	Indian Navy	General ...	Rep., VIII of 1868.
	XIII	Trisuli Pice	Provinces of Benares.	Rep., VIII of 1868.
	XIV	Transportation for Life ...	Sudder Courts at Presidency Towns.	Rep., XVII of 1862.
	XV	Customs duties	Presidencies of Bengal, Madras and Bombay.	Rep., IX of 1845, Sec. 3.
	XVI	Salt-duties, Bombay ...	Bombay ...	Rep., XII of 1876.
	XVII	Colaba	Colaba, Bombay	Rep., VIII of 1863.
	XVIII	Jails, Bengal	Presidency of Fort William, Bengal.	Rep., XXVI of 1870.
	XIX	Town duties, Bombay ...	Bombay ...	
	XX	Factors	Territories of the E. I. Company.	Rep., IX of 1872.
	XXI	Emigration... ..	Ditto ...	Rep., XIII of 1864.
	XXII	Copper Coinage	Ditto ...	Rep., XIII of 1862.
1845	I	Sales of Land for Revenue arrears, Bengal. }	Provinces of Bengal, Behar, Orissa & Benares & the Ceded & Conquered Provinces in the Presidency of Fort William, Bengal. }	Rep., as to Lower Provinces, XI of 1859; Punjab, XII of 1873; N.-W. Provinces XIX of 1873.
	II	Adultery, Bombay ...	Bombay ...	Rep., XVII of 1862.
	III	Security for Costs in Appeals, Bengal. }	Presidency of Fort William, Bengal.	Rep., XII of 1873.

Year.	Number.	Subject-matter.	Extent of operation.	How repealed or otherwise determined.
1845	IV	Registration of Deeds ...	Presidency of Fort William, Bengal,	Rep., XVI of 1864.
	V	Native Law Officers ...	Ditto ...	Rep., XI of 1864.
	VI	Commissions of the Peace...	Presidency of Bengal, Madras and Bombay.	Rep., II of 1869.
	VII	Canals, N.-W. Provinces ...	N.-W. Provinces...	Rep., VIII of 1873.
	VIII	Security for Costs in Appeals, Bombay.	Bombay ...	Rep., XVI of 1874.
	IX	Import duties ...	Presidencies of Bengal, Madras and Bombay.	Rep., VIII of 1868.
	X	Warrants on failure to serve { summons.	Territories of the E. I. Company.	Rep., XVII of 1862.
	XI	Municipal Funds, Bombay Town.	Bombay ...	Rep., XXV of 1858.
	XII	Assistant Registrar, Sadr Diwani and Sadr Foujdari Adalat, Bombay.	Bombay ...	Rep., VIII of 1868.
	XIII	Attornies, Supreme Court, Bombay.	Bombay ...	Rep., VIII of 1868.
	XIV	Nazirs in Munsifs' Courts, { Bengal.	Presidency of Fort William, Bengal.	Rep., XII of 1873.
	XV	Native Soldiers ...	Presidencies of Bengal, Madras and Bombay.	Rep., X of 1872.
	XVI	Re-admission of Appeals, { Bengal and Madras.	Presidencies of Bengal and Madras	Rep., XII of 1873.
	XVII	Witnesses in Munsifs' Courts Bengal.	Presidency of Fort William, Bengal.	Rep., XII of 1873.
	XVIII	Offences by Convicts ...	Territories of the E. I. Company.	Rep., XVII of 1862.
	XIX	Assam Company ...	Bengal ...	Rep., XII of 1873.
	XX	Native Army, Articles of { War.	Territories of the E. I. Company.	Rep., XIX of 1847.
	XXI	Meriah Sacrifices ...	Bengal & Madras	Rep., XVI of 1874.
	XXII	Governor-General ...	General ...	Rep., VIII of 1868.
	XXIII	Union Bank ...	General ...	Rep., VIII of 1868.
	XXIV	Pilot Court, Bengal ...	Bengal ...	Rep., XII of 1859.
	XXV	Emigrant Ships, Madras...	Madras ...	Rep., XIII of 1864.

Year.	Number.	Subject-matter.	Extent of operation.	How repealed or otherwise determined.
1845	XXVI	Spirit licenses, Calcutta ...	Calcutta ...	Rep., XI of 1849.
	XXVII	Assistant Magistrates, Bengal.	Presidency of Fort William, Bengal.	Rep., XVII of 1862.
	XXVIII	Supreme Courts, Madras ...	Madras ...	Rep., VIII of 1868.
	XXIX	Joint Zilla and Sessions Judges.	Bombay ...	Rep., X of 1872.
	XXX	Fines in compensation, Madras.	Madras ...	Rep., XVII of 1862.
	XXXI	Pensions of Soldiers ...	Territories of the E. I. Company.	Rep., VI of 1849.
	XXXII	Distillery Licenses, Madras	Madras ...	Rep., Madras Act III of 1864.
1846	I	Pleaders ...	Territories of the E. I. Company. }	Rep., IX of 1884.
	II	Unscrewed Cotton ...	Bombay ...	Rep., I of 1852.
	III	Boundary-marks, Bombay	Bombay ... }	Rep., in part, Bombay Act 1 of 1865, sec. 50 ; XVI of 1874. Residue rep., Bombay Act V of 1879.
	IV	Execution-sales of Land, Bengal.	Presidency of Fort William, Bengal.	Rep., XII of 1873.
	V	Surat Police ...	Bombay ...	Rep., VIII of 1868.
	VI	Bhatti Territory, N. W. Provinces.	Bhatti Territory	Rep., IV of 1872.
	VII	Diet money for Witnesses	Presidency of Fort William, Bengal.	Rep., XVII of 1862.
	VIII	Revenue Settlement, N. W. Provinces.	N. W. Provinces	Rep., XII of 1876.
	IX	Boats in Harbours, Madras	Madras ...	
	X	Distress for Rent, Bengal...	Bengal ...	Rep., X of 1859.
	XI	Khandecand Ahmadnagar }	Bombay ... }	Rep., (except as to Scheduled Districts), XIV of 1874. Rep., in part, XVI of 1874 ; XII of 1876.
1847	I	Boundaries, N. W. Provinces.	N. W. Provinces	Rep., XIX of 1873.

Year.	Number.	Subject-matter.	Extent of operation.	How repealed or otherwise determined.
1847		Explaining Act V of 1840...	Territories of the E. I. Company.	Rep., VIII of 1868.
		Police, Straits Settlements	Straits Settlements.	Rep., XIII of 1856.
	IV	Military Magistrates ...	Madras ...	Rep., VIII of 1868.
	V	Execution of Sentences of Courts in Native States.	{ Territories of the E. I. Company.	Rep., VIII of 1868.
	VI	Copper Currency, Straits Settlements. {	Straits Settlements. {	Rep., in part, XVII of 1855.
	VII	Distresses, Calcutta ...	Calcutta ...	Rep., I of 1875.
	VIII	Emigration from Madras Port.	Madras ...	Rep., XIII of 1864.
	IX	Assessment of new Lands, Lower Provinces. {	Provinces of Bengal, Behar and Orissa. {	Rep. in part. XIV of 1870; XVI of 1864; Bengal Act IV of 1868.
	X	Sentences to Imprisonment for Life. {	Territories of the E. I. Company. {	Rep., XVII of 1862.
	XI	Convicts from Hong-Kong	Straits Settlements.	Rep., VIII of 1868.
	XII	Fines on Munsifs and Sudr Amins.	Bengal ...	Rep., VIII of 1868.
	XIII	Emigration to Ceylon ...	Territories of the E. I. Company.	Rep., XIII of 1864.
	XIV	Transcription of Plaints, Bengal.	Bengal ...	Rep., VIII of 1868.
	XV	Survey of Lands in Calcutta	Calcutta ...	Rep., VIII of 1868.
	XVI	Commissioners for Improvement of Calcutta.	Calcutta ...	Rep., X of 1852.
	XVII	Defects in Civil Procedure	Bengal & Madras	Rep., XII of 1873.
	XVIII	Registration of Deeds, Bengal.	Presidency of Bengal.	Rep., XVI of 1864.
	XIX	Articles of War, Native Army.	Territories of the E. I. Company.	Rep., XXIX of 1861.
	XX	Copyright ... {	British India, except the Scheduled Districts. {	Rep., in part— XVII of 1862; XIV of 1870; IX of 1871; XVI of 1874; XII of 1876; I of 1879.
	XXI	Supreme Court, Bombay ...	Bombay ...	Rep., VIII of 1868.

Year.	Number.	Subject-matter.	Extent of operation.	How repealed or otherwise determined.
1848	XXII	Municipal Commissioners, Calcutta.	Calcutta ...	Rep., XIV of 1856.
	XXIII	Transportation	Supreme Courts.	Rep., VIII of 1868.
	I	Forgery, Bengal	Presidency of Fort William, Bengal.	Rep., XVII of 1862.
	II	Municipal Commissioners, Calcutta.	Calcutta ...	Rep., XII of 1852.
	III	Meaning of 'Thag' & 'Thaggi'	General ...	Rep., XVII of 1862.
	IV	Coroner's Juries	Presidency Towns	Rep., IV of 1871.
	V	Penal Recognizances ...	Presidency of Bengal.	Rep., XVII of 1862.
	VI	Foreign Bottoms	Territories of the E. I. Company.	Rep., VIII of 1868.
	VII	Amending Act VI of 1848.	Ditto.	Rep., XII of 1873.
	VIII	Amending Bengal Regulation V of 1812.	Bengal ...	Rep., X of 1859.
	IX	Municipal Rates, Straits Settlement.	Straits Settlement,	Rep., XXVII of 1856.
	X	Mandvi, Bombay	Bombay ...	{ Rep. in part, XV of 1874. Residue rep.
	XI	Wandering Gangs of Thieves	Territories of the E. I. Company.	Rep., XVII of 1862.
	XII	Commissioners for Recovery of Small Debts, Calcutta.	Calcutta ...	Rep., VIII of 1868.
	XIII	Limitation, Bengal	Presidency of Bengal.	Rep., VIII of 1868.
	XIV	Commissions to take Affidavits, Supreme Court, Calcutta.	Supreme Court, Calcutta.	Rep., X of 1877.
	XV	Officers of Supreme Courts.	Territories of the E. I. Company.	Rep. in part, XII of 1876.
	XVI	Salt, N.-W. Provinces ...	N. W. Provinces...	Rep., XIV of 1870.
	XVII	Stamp duties, Madras ...	Madras ...	Rep., VII of 1870.
	XVIII	Nawab of Surat	Bombay ...	Rep. in part, XIV of 1870.
	XIX	Criminal Sentences, Bengal and Madras. {	Presidencies of Bengal & Madras.	Rep., XVII of 1862.
	XX	Attendance before Collectors.	Lower Provinces of Beng. Presidency.	
	XXI	Wagers	General ...	Rep., IX of 1872.
	XXII	Indictments for forgery ...	Courts established by Royal Charter.	Rep., VIII of 1868.

Year.	Number.	Subject-matter.	Extent of operation.	How repealed or otherwise determined.
1848	XXIII	Amending Act XXV of 1840	Presidency of Fort William, Bengal.	Rep., XXI of 1856.
	XXIV	Governor-General ...	General ...	Rep., VIII of 1868.
	XXV	Benganapalle, Madras ...	Madras ...	Rep., VIII of 1868.
	XXVI	Coroners' Juries, Straits Settlements.	Straits Settlements,	
	XXVII	Indian Navy	General ...	Rep., VIII of 1868.
1849	I	Offences in Foreign States.	Ditto	Rep., XI of 1872.
	II	Branding Convicts ...	Territories of the E. I. Company.	Rep., VIII of 1868.
	III	Union Bank, Calcutta ...	Calcutta ...	Rep., VIII of 1868.
	IV	Criminal Lunatics ...	General ...	Rep., X of 1875.
	V	Customs-duties, Straits Settlements.	Straits Settlements,	Rep., VIII of 1868.
	VI	Pensions	Territories of the E. I. Company.	Rep., XXIII of 1871.
	VII	Administrator-General	Bengal ...	Rep., (except as to letters of administration granted before 1st March 1855), VIII of 1855, Sec. 56.
	VIII	Police Magistrates, Madras Town.	Madras ...	Rep., XIII of 1856.
	IX	Police Magistrates, Madras	Ditto	Rep., XVI of 1874.
	X	Commissioner of Revenue, Madras.	Ditto	
	XI	Abkari, Calcutta ...	Calcutta ...	Rep., Beng. Act VII of 1878.
	XII	Sadr Adalat, Bombay ...	Bombay ...	Rep., VIII of 1868.
	XIII	Smuggling of Salt, Calcutta	Calcutta ...	Rep., XII of 1873.
	XIV	Tampering with Army or Navy.	Territories of the E. I. Company.	Rep., XVII of 1862.
	XV	Repealing Bombay Regulation XVIII, 1827, S. 6, cl. 1	Bombay ...	Rep., VIII of 1868.
1850	I	Title to certain Lands, Calcutta.	Calcutta ...	Rep., VI of 1857.
	II	Extending Act VII of 1840 to Madras and Bombay.	Madras & Bombay,	Rep., (except as to letters of administration granted before 1st March 1855), VIII of 1855, Sec. 56.

Year.	Number.	Subject-matter.	Extent of operation.	How repealed or otherwise determined.
1850	III	Sadr Amins and District Munsiffs, Madras.	Madras ...	Rep., X of 1861.
	IV	Appeals to Sadr Court, Bengal.	Bengal ...	Rep., XV of 1853.
	V	Coasting trade	British India, except the Scheduled Districts.	
	VI	Military Offences	Territories of the E. I. Company.	Rep., XXIX of 1861.
	VI	Removal of Prisoners	Ditto ...	Rep., XVII of 1862.
	VIII	Appeal	Bengal ...	Rep., XII of 1873.
	IX	Small Cause Courts, Presidency Towns.	Presidency Towns	Rep., XV of 1862.
	X	Aden... ..	Aden ...	Rep., XII of 1873.
	XI	Amending Act X of 1841...	British India, except the Scheduled Districts.	Rep. in part, XIV of 1870.
	XII	Public Accounts	Ditto ...	{ Rep. in part, XIV of 1870. Rep. as to Bombay, Bombay Act V of 1879, so far as it applies to Revenue Officers in the Presidency of Bombay.
	XIII	Breaches of Trust	General ...	Rep., XVII of 1862.
	XIV	Police Magistrates, Straits Settlements.	Straits Settlements.	Rep., XIII of 1856.
	XV	Munsiffs' Courts, Bengal ...	Bengal ...	Rep., XII of 1873.
	XVI	Fines	Territories of the E. I. Company.	Rep., XVII of 1862.
	XVII	Taking Land in Bombay and Colaba.	Bombay ...	Rep., VI of 1857.
	XVIII	Protection of Judicial Officers.	British India, except Scheduled Districts.	
	XIX	Binding Apprentices	Ditto ...	{ Rep. in part,— XIV of 1870; XVI of 1874.
	XX	Tributary Mahals, Katak...	Katak.	
	XXI	Non-forfeiture of Rights for Loss of Caste.	British India, except Scheduled Districts,	

Year.	Number.	Subject-matter.	Extent of operation.	How repealed or otherwise determined.
1850	XXII	Governor-General ...	General ...	Rep., VIII of 1868.
	XXIII	Land Revenue, Calcutta ...	Calcutta ...	Rep., in part, XV of 1882.
	XXIV	Duty on Tobacco, Bombay Town.	Bombay ...	Rep., IV of 1857.
	XXV	Forfeiture of deposits on Land sales.	} Bengal ...	{ Rep. in part,— X of 1861. XIV of 1870.
	XXVI	Improvements in Towns ...		
	XXVII	Registry of Merchant Seamen.	Territories of the E. I. Company.	Rep. locally,— Bengal Act V of 1876; Madras Act X of 1865, S. 3. Bombay Act VI of 1873; IV of 1868, S. 5; so far as it is, affects the Punjab by IV of 1873; Rep., in part, XIV of 1870.
	XXVIII	Merchant Seamen...	Ditto ...	Rep., I of 1859.
	XXIX	Amending Act XXXI of 1838.	H. M.'s Courts of Justice.	Rep., VIII of 1868.
	XXX	Pleadors : Appeals...	Territories of the E. I. Company.	Rep., VIII of 1868.
	XXXI	Salt Revenue, Bombay ...	Bombay ...	Rep., Bombay Act VII of 1873.
	XXXII	Repealing Act XV of 1836	N.-W. Provinces	Rep., VIII of 1868.
	XXXIII	Sale of Patni Tenures, Bengal	Bengal ...	{ Rep., in part,— XIV of 1870. XVI of 1874.
	XXXIV	State Prisoners ...	{ British India, except Scheduled Districts.	
	XXXV	Ferries, Bombay...	Bombay ...	Rep., Bombay Act II of 1868.
	XXXVI	Amending Articles of War for Native Army ...	Territories of the E. I. Company.	Rep., XXIX of 1861.
	XXXVII	Inquiries into behaviour of Public servants.	British India, except Scheduled Districts	Rep. in part, XIV of 1870; XVI of 1874; XII of 1876 in part locally, XVI of 1868.

Year.	Number.	Subject-matter.	Extent of operation.	How repealed or otherwise determined.
1850	XXXVIII	Prisoners' Counsel... ..	Territories of the E. I. Company	Rep., XVII of 1862.
	XXXIX	Municipal Commissioners, Calcutta.	Calcutta	Rep., VIII of 1868.
	XL	Pawnbrokers, Straits Settlements.	Straits Settlements.	Rep., XIII of 1856.
	XLI	Landing Decrepit Beggars, Straits Settlements.	Ditto	
	XLII	Public Works, Bengal ...	Presidency of Fort William, Bengal	Rep., VI of 1857.
	XLIII	Joint Stock Companies ...	General	Rep., X of 1866, S. 219.
	XLIV	Board of Revenue, Lower Provinces.	Lower Provinces, Beng. Presidency	Rep. in part, XIV of 1870.
	XLV	Coroners	Territories of the E. I. Company	Rep., IV of 1871.
1851	I	Fines under Act XXIV of 1845.	Presidency of Fort William, Bengal.	Rep., XII of 1859.
	II	Amending Ben. Reg. XIII of 1810.	Ditto	Rep., VIII of 1868.
	III	Salt-smuggling ...	Provinces of Bengal, Behar, Orissa.	Rep., VIII of 1868.
	IV	Dy. and Assistant Magistrates, Bombay.		Rep., XVII of 1862.
	V	Turton's Insolvency ...	Bengal	Rep., VIII of 1868.
	VI	Foras Land, Bombay ...	Bombay	Rep., XIV of 1870.
	VII	Execution of Decrees, Bombay.	Ditto	Rep., X of 1861.
	VIII	Tolls on Roads and Bridges.	Presidencies of Bengal, Madras & Bombay. Extended to the Punjab.	Rep. in part, XIV of 1870; XII of 1876. VIII of 1888. in part locally, XV of 1864. locally, Bombay Act III of 1875. Mod. Upper Burma, XX of 1886.
	IX	Gambling, Bombay Town...	Bombay	Rep., XIII of 1856.
	X	Administration Certificates	General	Rep., XXVII of 1860.
	XI	Registration of Deeds, Bengal.	Presidency of Bengal.	Rep., XVI of 1864.
	XII	Land Revenue, Madras Town.	Madras	Rep., in part, Madras Act VI of 1867.
	XIII	Amending Act V of 1851 ...	Bengal	Rep., VIII of 1868.

Year.	Number.	Subject-matter.	Extent of operation.	How repealed or otherwise determined.
1851	XIV	Excise, Straits Settlements	Straits Settlements	Rep., XXX of 1866.
	XV	Cotton-frauds, Bombay ...	Bombay ...	Rep., Bombay Act IX of 1863.
	XVI	Receivers of Stolen Goods	General ...	Rep., XVII of 1862.
1852	I	Customs, Bombay ...	Bombay ...	Rep., XIII of 1871.
	II	Land-customs, Bombay ...	Ditto	Rep., XXIX of 1857.
	III	Spirituous Liquors, Bombay	Ditto	Rep., Bombay Act V of 1878.
	IV	Emigration ..	General ...	Rep., XIII of 1864.
	V	Marriage by Registrars ...	Ditto	Rep., XV of 1872.
	VI	Horsburgh Light-house ...	Straits Settlements	Rep., XIII of 1854.
	VII	Offences against Salt laws, Madras ...	Madras ...	Rep. locally, Madras Act VI of 1871. ,, in part XVI of 1874.
	VIII	Sheriffs' Fees ...	Calcutta, Madras, Bombay. Applicable to processes issued from the Punjab for service in Presidency Towns.	
	IX	Repealing Ben. Reg. I of 1832.	Bengal ...	Rep., VIII of 1868.
	X	Municipal Commissioners, Calcutta.	Calcutta ...	Rep., XXVIII of 1856.
	XI	Titles to Rent-free Estate, Bombay.	Bombay ...	Rep., in part, XVI of 1874.
	XII	Municipal Commissioners, Calcutta.	Calcutta ...	Rep. (except sec. 50)— XIV of 1856; Rep., as to sec. 50, XXVIII of 1856.
	XIII	Calcutta Police ..	Calcutta ...	Rep., XIII of 1856.
	XIV	Extending certain Acts to Straits Settlements ...	Straits Settlements	
	XV	Evidence ...	Her Majesty's Courts of Justice	Rep., I of 1872.
	XVI	Criminal Procedure, Supreme Courts.	Ditto ...	Rep., X of 1875.
	XVII	Special Cases, Supreme Courts.	Ditto ...	Rep., X of 1877.

Year	Number.	Subject-matter.	Extent of operation.	How repealed or otherwise determined.
1852	XVIII	Pleaders, Lower Provinces	Lower Provinces of Bengal Presidency.	Rep., XX of 1865.
	XIX	Abkari, Madras Town ...	Madras ...	Rep., in part,— XIII of 1856; XIV of 1870.
	XX	Acquisition of Land for Public Purposes, Madras.	Ditto	Rep., VI of 1857.
	XXI	Deputy Collectors, Bombay	Bombay ...	Rep., in part,— XII of 1873; XII of 1876. Bom. Act I of 1868.
	XXII	Summary Suits for Arrears of Rent.	Bengal ...	Rep., VIII of 1868.
	XXIII	Fines, Madras and Bombay	Madras & Bombay	Rep., XVI of 1874.
	XXIV	Crimping ...	Territories of the E. I. Company	Rep., XIII of 1864.
	XXV	Execution of Decrees on Appeal.	Presidency of Fort William, Bengal.	Rep., VI of 1874.
	XXVI	Sadr Amins and Munsiffs ...	Ditto	Rep., XII of 1873.
	XXVII	Heads of Villages, Bombay	Bombay ...	Rep., Bombay Act VIII of 1867.
	XXVIII	Police, Bombay ...	Ditto ...	Rep., VIII of 1868.
	XXIX	Circuits of Judicial Commissioners, Bombay.	Ditto ...	Rep., XII of 1873.
	XXX	Naturalization of Aliens...	British India, except Scheduled Districts.	Rep. in part, XVI of 1874. XII of 1876.
	XXXI	Repealing Ben. Reg. XX of 1817, S. 16, cl. 17.	Bengal ...	Rep., VIII of 1868.
	XXXII	Prosecution of certain Officers.	General ...	Rep., XVII of 1862.
	XXXIII	Enforcement of Judgments	British India, except Scheduled Districts.	Rep., VIII of 1867.
	XXXIV	Gambling, Straits Sett.	Straits Settlements	Rep., XIII of 1856.
	XXXV	Title to certain Lands, Calcutta	Arracan ...	Rep., II of 1876.
1853	I	Extending Act VII of 1849 to Madras and Bombay.	Madras & Bombay,	Rep., XVII of 1862.

Year.	Number.	Subject-matter.	Extent of operation.	How repealed or otherwise determined.
1853	II	Public Charges on Land-holders.	British India, except Scheduled Districts.	
	III	Great Indian Peninsula Railway.	Bombay ...	Rep., XVIII of 1854, Sec. 39.
	IV	Tobacco Monopoly, Madras	Madras ...	Rep., VIII of 1868.
	V	Amending Act IV of 1839, Straits Settlements.	Straits Settlements	
	VI	Summary Suits for Arrears of Rent, &c.	Bengal ...	Rep., in part, XII of 1873; Beng. Act VIII of 1865
	VII	Jurisdiction of Magistrates	Territories of the E. I. Company	Rep., X of 1872.
	VIII	Colaba ...	Bombay ...	Rep., in part, XV of 1874. Residue rep.
	IX	Amending Act VI of 1853 ...	Bengal ...	Rep., VIII of 1868.
	X	Amending Act XXII of 1836	Ditto ...	Rep., XII of 1873.
	XI	Harbour of Bombay ...	Bombay ...	Rep., in part, XXII of 1855, Sec. 2; XIV of 1870
	XII	Great Indian Peninsula Railway.	Ditto ...	Rep., XVIII of 1854, Sec. 39.
	XIII	Vishalghur ...	Ditto ...	Rep., XV of 1874.
	XIV	Indian Navy ...	Territories of the E. I. Company	Rep., VIII of 1868.
	XV	Regular Appeals, Bengal	Presidency of Fort William, Bengal	Rep., XII of 1873.
	XVI	Special Appeals ...	Presidencies of Bengal, Madras and Bombay ...	Rep., XII of 1873.
	XVII	Imrit Rao's Jagir ...	Bengal Presidency	Rep., XV of 1874.
	XVIII	Sale of Spirits in Cantonments.	General ...	Rep. in part, XVI of 1874; locally, XXII of 1864; Madras Act I of 1866, Sec. 41; Bombay Act III of 1867, Sec. 2;
	XIX	Evidence ..	Presidency of Fort William, Bengal ...	Rep. in part, X of 1855; X of 1861; I of 1872.
	XX	Pleaders ...	Courts of the E. I. Company ...	Rep., IX of 1884.
	XXI	Governor-General ...	General ...	Rep., VIII of 1868.

Year.	Number.	Subject-matter.	Extent of operation.	How repealed or otherwise determined.
1854	I	Acquisition of Land, Madras Town.	Madras ...	Rep., VI of 1857.
	II	Assessor to Court of Petty Sessions, Bombay Town.	Bombay ...	Rep., VIII of 1868.
	III	Amending Native Articles of War.	General ...	Rep., XXIX of 1861.
	IV	Cantonment Bazars, Bombay	Bombay ...	Rep. locally, Bombay Act III of 1867, Sec. 2.
	V	Bengal Bonded Warehouse Association.	Presidency of Fort William, Bengal }	Rep. in part, XIV of 1870.
	VI	Supreme Courts, Equity Procedure.	Her Majesty's Supreme Courts }	Rep., VIII of 1868.
	VII	Fugitive foreign Offenders	Territories of the E. I. Company }	Rep., XI of 1872.
	VIII	Certificates of Administration	Ditto ..	Rep., XXVII of 1860.
	IX	Civil Appeals	Ditto ..	Rep., XII of 1873.
	X	Asst. and Deputy Magistrates	Presidency of Bengal }	Rep., X of 1872.
	XI	Copper Coinage	Territories of the E. I. Company }	Rep., XIII of 1862.
	XII	District Munsiffs, Madras ...	Madras ...	Rep., XVII of 1862.
	XIII	Lighthouses, Straits Settlements.	Straits Settlements	Rep. in part, XIV of 1870.
	XIV	Assam Tea Company ...	Bengal. ...	Rep., IV of 1855, Sec. 14.
	XV	Borneo Commission ..	Territories of the E. I. Company }	Rep., VIII of 1868.
	XVI	Police, N.-W. Provinces ..	North Western Provinces. }	Rep. in part, XIV of 1870.
	XVII	Post Office	Territories of the E. I. Company }	Rep., XIV of 1866, Sec. 3.
	XVIII	Railways	British India, except Scheduled Districts. }	Rep., IV of 1879.
	XIX	Foreign Sugar ... ..	...	Rep., VIII of 1868.
	XX	Agent to Governor-General, Rámghar, Jungle Mahals, and Midnapore.	Bengal ...	
	XXI	Banks of Bengal, Madras and Bombay.	Bengal, Madras and Bombay. }	Rep. locally, IV of 1862 ; Mad. Act V of 1862 ; Bom. Act X of 1863.

Year.	Number.	Subject-matter.	Extent of operation	How repealed or otherwise determined.
1854	XXII	British Subjects	Bengal and Madras	Rep., VIII of 1868.
	XXIII	Outrages in Malabar	Madras	Rep., XX of 1859.
	XXIV	War-knives in Malabar	Ditto	Rep. in part, XIV of 1870.
	XXV	Mofussil Treasury Warrants	Bengal	Rep., VIII of 1868.
	XXVI	Court of Wards, Bengal {	Presidency of Fort William, Bengal {	Rep. locally, XIX of 1873; Bengal Act IV of 1870, Sec. 86.
	XXVII	Nazim of Bengal	Territories of the E. I. Company.	Rep., III of 1883.
	XXVIII	Municipal Commrs., Calcutta	Calcutta	Rep., XXVIII of 1856.
	XXIX	Exportation of Saltpetre	Territories of the E. I. Company.	Rep., VIII of 1868.
	XXX	Custom-duties, British Burma. }	British Burma	Rep., XX of 1866.
	XXXI	Real Actions: Conveyance of land. }	British India, except Scheduled Districts. }	Rep. in part, XIV of 1870; XIV of 1874; XII of 1876; locally, IV of 1882.
	XXXII	Torture, Madras	Madras	Rep., VIII of 1868.
	XXXIII	Language of Judicial Decisions.	General	Rep., XVI of 1874.
	XXXIV	Electric Telegraphs * ... }	Territories of the E. I. Company }	Rep., I of 1876.
1855		Governor-General	General	Rep., VIII of 1868.
	II	Evidence	Territories of the E. I. Company.	Rep., I of 1872.
	III	Indian Navy	General	Rep., VIII of 1868.
	IV	Assam Company	Bengal	Rep., XI of 1866.
	V	Execution, Supreme Courts	Her Majesty's Supreme Courts {	Rep. (except as to Straits Settlements) VIII of 1868.
	VI	Execution, Supreme Courts	Ditto.	Rep., X of 1877.
	VII	Arrest on Mesne Process, Supreme Courts. }	Ditto. }	Rep. (except as to Straits Settlements), VIII of 1868.
	VIII	Administrator-General	General	Rep., XXIV of 1867.

Year.	Number.	Subject-matter.	Extent of operation.	How repealed or otherwise determined.
1865	IX	Regular Appeals, Madras ...	Madras ...	Rep., X of 1861.
	X	Witnesses, Madras and { Bombay	Madras and { Bombay	Rep. in part, X of 1861 ; XII of 1873.
	XI	Mesne Profits: Improvements	British India, except the Scheduled Districts	Rep., in part, locally IV of 1882.
	XII	Suits for Wrongs: Executors and Administrators	Ditto.	Rep. in part, IX of 1871.
	XIII	Compensation for Loss occa- sioned by Death	Ditto.	Rep. in part, IX of 1871.
	XIV	Military Bazaars, Madras ...	Madras ...	Rep., XVI of 1874.
	XV	Joint Police Officers, Bombay	Bombay ...	Rep. XVII of 1862.
	XVI	Use of Badges, Bombay ...	Do.	Rep., XVII of 1862.
	XVII	Copper Currency, Straits Settlement	Straits Settlement,	
	XVIII	Pardons and Reprieves ...	Territories of the E. I. Company	Rep., XVI of 1874.
	XIX	District Munsifs, Madras...	Madras ...	Rep., VIII of 1868.
	XX	Boundary-marks, Madras ...	Do.	Rep., XXVIII of 1860.
	XXI	Wards, Madras	Do.	
	XXII	Ports and port-dues ...	Territories of the E. I. Company	Rep., XII of 1875.
	XXIII	Administration of Mortga- ged Estates ... {	British India, ex- cept the Sched- uled Districts. {	Rep., (except as to de- scents and devises occur- ring or made before 1866), VIII of 1868. in part, XVI of 1874.
	XXIV	Penal Servitude ... {	Ditto ... {	Rep. in part,— XII of 1867 ; XIV of 1870 ; V of 1871 ; XVI of 1874 ; XII of 1876.
	XXV	Sessions at Utakamand ...	Madras ...	Rep., VIII of 1868.
	XXVI	Government Savings Banks	Territories of the E. I. Company	Rep., V of 1873.
	XXVII	Banks of Bengal, Madras { and Bombay	Bengal, Madras { and Bombay	Rep. in part, IV of 1862 ; Madras Act V of 1862 ; Bombay Act X of 1863.
	XXVIII	Repeal of Usury Laws ...	British India, ex- cept Scheduled Districts	Rep. in part, XIV of 1870.

Year.	Number.	Subject-matter.	Extent of operation.	How repealed or otherwise determined.
1855	XXIX	Amending Act VI of 1844 ...	Madras ...	Rep., XII of 1873.
	XXX	Repealing Act XXVIII of 1839, S. 7	Bombay ...	Rep., VIII of 1868.
	XXXI	Emigration to St. Lucia and Granada	Territories of the E. I. Company	Rep., XIII of 1864.
	XXXII	Embankments, Lower Provinces	Lower Provinces, Bengal	Rep. locally, Bengal Act VI of 1873. in part, XIV of 1870; XVI of 1874.
	XXXIII	Exportation of Saltpetre...	Territories of the E. I. Company	Rep., VIII of 1868.
	XXXIV	Execution of Judgments...	General ...	Rep. (except as to Charter Courts), X of 1861.
	XXXV	Import of Cotton, N.-W. Provinces.	N.-W. Provinces...	Rep., V&II of 1868.
	XXXVI	Contraband Salt, N.-W. Provinces.	Ditto	Rep., VIII of 1875.
	XXXVII	Santhal Districts ...	Bengal ...	Rep. in part, XIV of 1870, and see XIV of 1874.
	XXXVIII	Rebellion in Bírghúm, &c....	Bengal ...	Rep., VIII of 1868.
1856	I	Obscene Books and Pictures	Territories of the E. I. Company	Rep., XVII of 1862.
	II	Offences affecting the Public	General ...	Rep., XVII of 1862.
	III	Abkari, Calcutta, Madras Town.	Calcutta & Madras.	Rep. locally, Beng. Act II of 1876.
	IV	Cattle killing ...	Presidency of Fort William, Bengal.	Rep., XVII of 1862.
	V	Extending Act XXIII of 1854	Madras ...	Rep., XX of 1859.
	VI	Patents ...	General ...	Rep., IX of 1857, but saved as to acts done under it XV of 1859, Sec. 36.
	VII	Water-supply, Bombay Town	Bombay ...	Rep., VIII of 1868.
	VIII	Gaols, Madras and Bombay	Madras and Bombay	Rep. locally, Madras Act V of 1869; in part, XIV of 1870; XII of 1876.
	IX	Bills of Lading ...	British India, except the Scheduled Districts	
	X	Native Articles of War ...	General ...	Rep., XXIX of 1861.
	XI	European Deserters ...	British India, except the Scheduled Districts	Rep. in part, XIV of 1870; XII of 1873; XVI of 1874.

Year.	Number.	Subject-matter.	Extent of operation.	How repealed or otherwise determined.
1856	XII	Civil Court Amins, Bengal	Presidency of Fort William, Bengal.	Rep. in part, X of 1861; XIV of 1870; X of 1873; XII of 1873.
	XIII	Police, Presidency Towns,...	Presidency Towns and Straits Settlements.	Rep. locally, Bengal Act IV of 1866, Sec. 2; Madras Act VIII of 1867, Sec. 81; in part, XLVIII of 1860; XIV of 1870; XVI of 1874; XII of 1875; IV of 1877; locally in part, Bom. Act I of 1872.
	XIV	Conservancy, Presidency Towns.	Presidency Towns and Straits Settlements.	Rep., XVI of 1874.
	XV	Re-marriage of Hindu Widows.	British India. except the Scheduled Districts.	
	XVI	Port-dues	General ...	Rep., VIII of 1868.
	XVII	Criminal Process	Territories of the E. I. Company.	Rep., XVII of 1862.
	XVIII	Collector of Calcutta ...	Calcutta ...	Rep. in part, XVIII of 1869.
	XIX	Emigration... ..	General ...	Rep., XVI of 1874.
	XX	Police Chaukidars, Bengal...	Presidency of Fort William, Bengal ...	Rep. in part, XIV of 1870; X of 1872; Bengal Act VI of 1867, Sec. 3; locally, Bengal Act V of 1876; locally, in part, Bengal Act III of 1864, Sec. 5; in part, XXII of 1871, Sec. 5.
	XXI	Abkari	Ditto	Rep., VII of 1878.
	XXII	Tolls, Kurraṭiya River ...	Bengal ...	
	XXIII	Recovery of Revenue-arrears, Madras.	Madras ...	Rep., XXXIX of 1853.
	XXIV	Bengal Mariners, &c., Society	Bengal ...	Rep., VIII of 1868.
	XXV	Municipal Rates, Presidency Towns.	Presidency Towns & Straits Settlements.	Rep., XVI of 1874.
	XXVI	Municipal Commissioners, Madras Town,	Madras ...	Rep., Mad. Act IX of 1865.

Year.	Number.	Subject-matter.	Extent of operation.	How repealed or otherwise determined.
1856	XXVII	Municipal Commissioners, Straits Settlements.	Straits Settlements	Rep. in part, XVII of 1863.
	XXVIII	Municipal Commissioners, Calcutta.	Calcutta	Rep., Beng. Act VI of 1863.
	XXIX	Oaths by Registrars of Deeds	Bengal	Rep., XVI of 1864.
1857	I	Native Passenger Vessels ...	Bengal	Rep., VIII of 1868.
	II	Calcutta University ...	Presidency of Fort William, Bengal,	Rep. in part, XII of 1876.
	III	Cattle-trespass.	General	Rep., I of 1871.
	IV	Tobacco, Bombay Town, {	Bombay ... {	Rep. in part, XIV of 1870; XVI of 1874; XII of 1876.
	V	Oriental Gas Company ...	Calcutta	
	VI	Acquisition of Land for Public Purposes. {	Territories of the E. I. Company.	Rep., X of 1870.
	VII	Uncovenanted Agency, Madras. {	Madras... {	Rep. in part, XVII of 1862; X of 1873; XII of 1873.
	VIII	Courts Martial	General	Rep., XXIX of 1861.
	IX	Repealing Act VI of 1856...	Do.	Rep., VIII of 1868.
	X	Santhal Districts	Bengal	Rep. in part, XIV of 1870; and see. XIV of 1874.
	XI	State Offences	British India, except the Scheduled Districts {	Rep. in part, XVII of 1862; XII of 1876.
	XII	Piratical Junks, Straits Settlements.	Straits Settlements,	
	XIII	Opium, Bengal	Presidency of Fort William, Bengal,	Rep., in part, XIV of 1870; I of 1878.
	XIV	Military and State Offences	General	Rep., VIII of 1868.
	XV	Printing Presses	Territories of the E. I. Company.	Rep., VIII of 1868.
	XVI	Heinous Offences	Places subject to Martial law or to which Act may be extended.	Rep., VIII of 1868.
	XVII	Mutineers and Deserters...	General	Rep., VIII of 1868.
	XVIII	Family, &c., of Nawab of Carnatic.	Madras	Rep., VIII of 1868.

Year	Number.	Subject-matter.	Extent of operation.	How repealed or other wise determined.
1856	XIX	Joint Stock Companies ...	Territories of the E. I. Company	Rep. (except as to Table B., which is unrepealed as to Companies existing on 1st May 1866), X of 1866.
	XX	Amending Act IX of 1850	Presidency Towns	Rep., XV of 1882.
	XXI	Suburbs of Calcutta and Howrah, ...	Calcutta ...	Rep. locally, Bengal Act VIII of 1868 ; Bengal Act II of 1866, Sec. 52 ; in part, XVI of 1874 ; in part locally, Bengal Acts I and III of 1864 ; and XVIII of 1876.
	XXII	Bombay University ...	Bombay ...	Rep. in part, XII of 1876.
	XXIII	Volunteer Corps ...	General ...	Rep., XX of 1869.
	XXIV	Port-dues ...	Territories of the E. I. Company ...	Rep., VIII of 1868.
	XXV	Forfeitures... ..	British India, except the Scheduled Districts	Rep. in part, V of 1869 ; IX of 1871.
	XXVI	Ferries, Straits Settlements,	Straits Settlements	
	XXVII	Madras University ...	Madras ...	Rep. in part, XII of 1876.
	XXVIII	Arms and Ammunition ...	Places to which Act may be extended,	Rep., VIII of 1868.
	XXIX	Land Customs, Bombay ...	Bombay ...	Rep. in part, XXIII of 1869 ; XI of 1869, Sec. 2 ; XIV of 1870 ; XIII of 1871 ; XVI of 1874 ; XII of 1876.
	XXX	Port-dues, Calcutta ...	Calcutta ...	Rep., XII of 1875.
	XXXI	Port-dues, Bombay port ...	Bombay ...	Rep., XII of 1875.
	XXXII	Native Articles of War ...	General ...	Rep., XXIX of 1861.
	XXXIII	Foreigners ...	Territories of the E. I. Company ...	Rep., VIII of 1868.
	XXXIV	Sale of Gánja, Bombay ...	Bombay ...	Rep. in part, XIV of 1870. Residue rep.
	XXXV	Port-dues, Burmese Ports ...	Burmese Ports ...	Rep., XII of 1875.
1858	I	Compulsory Labour, Madras	Madras ...	Rep. in part, XVI of 1874.
	II	Kátak Port dues	Kátak ...	Rep., XII of 1875.

Year.	Number.	Subject-matter.	Extent of operation.	How repealed or otherwise determined.
1858	III	State Prisoners ...	British India, except the Scheduled Districts ...	Rep. in part, XIV of 1870.
	IV	Governor-General ...	General ...	Rep., VIII of 1868.
	V	Escaped Convicts ...	Do. ...	Rep., XVII of 1860.
	VI	Impressment of Labour ...	Places to which Act may be extended,	Rep., VIII of 1868.
	VII	Port-dues, Madras ...	Madras ...	Rep., Madras Act VII of 1867.
	VIII	Karachi Port-dues ...	Karachi ...	Rep., XII of 1875.
	IX	Cambay Gulf Port-dues ...	Cambay ...	Rep., Bombay Act XI of 1866.
	X	Confiscation, &c., for Rebellion ...	Places to which Act may be extended,	Rep., VIII of 1868.
	XI	Corporal Punishment ...	Places to which Act may be extended,	Rep., VIII of 1868.
	XII	Roads in Suburbs of Calcutta and Howrah ...	Calcutta ...	Rep., Beng. Act V of 1876.
	XIII	Unlawful Possession of Arms ...	Places to which Act may be extended,	Rep., VIII of 1868.
	XIV	Minors, Madras ...	Madras ...	
	XV	Aden Port-dues ...	Aden ...	Rep., XII of 1875.
	XVI	Subordinate Criminal Court, Utakamand ...	Madras ...	Rep., VIII of 1868.
	XVII	Cambay Gulf Light-dues ...	Bombay ...	Rep., VIII of 1868.
	XVIII	Regulation of Ports, Madras ...	Madras ...	Rep., XII of 1875.
	XIX	Authentication of certain Stamped Paper ...	General ...	Rep., XVIII of 1860.
	XX	Dispossessed Landed Proprietors, N.-W. Provinces, ...	N.-W. Provinces ...	Rep., VIII of 1868.
	XXI	Native Passenger Ships ...	Territories of the E. I. Company ...	Rep., XII of 1870.
	XXII	Transportation ...	General ...	Rep., XIII of 1868.
	XXIII	Karnul, Madras ...	Madras ...	Rep., XV of 1874.
	XXIV	Family of Nawab of Carnatic ...	Ditto ...	Rep., VIII of 1868.
	XXV	Municipal Commissioners, Bombay Town ...	Bombay ...	Rep., Bombay Act II of 1865.

Year.	Number.	Subject-matter.	Extent of operation.	How repealed or otherwise determined.
1858	XXVI	State Offences	General	Rep., VIII of 1868.
	XXVII	Governor-General	Ditto	Rep., VIII of 1868.
	XXVIII	Police, Port of Madras	Madras	Rep. in part, XIV of 1870.
	XXIX	Suits in Civil Courts, N.-W. Provinces.	N.-W. Provinces	Rep., VIII of 1868.
	XXX	Nawab of Carnatic	Madras	Rep., VIII of 1868.
	XXXI	Alluvial Land, Bengal ... {	Presidency of Fort William, Bengal. }	Rep. locally, XIX of 1873; XVIII of 1881.
	XXXII	Tanjore	Madras	Rep., XV of 1874.
	XXXIII	Indian Navy	General	Rep., VIII of 1868.
	XXXIV	Lunacy, Supreme Courts	Supreme Courts	Rep. in part, XVI of 1874.
	XXXV	Lunacy, Mofussil Courts	British India, except the Scheduled Districts ...	Rep. in part, XIV of 1870.
	XXXVI	Lunatic Asylums	Ditto	{ Rep. in part, XVI of 1874; Amended, XVIII of 1886.
	XXXVII	Nawab of Carnatic	Madras	Rep., in part, XVI of 1874.
	XXXVIII	Delhi Territory	Delhi Territory ...	Rep., VIII of 1868.
	XXXIX	Arrears of Land-revenue, Madras.	Madras	Rep., Madras Act II of 1864, Sec. 65.
	XL	Minors, Bengal	Presidency of Bengal ... }	Rep. in part, XIV of 1870; Bengal Act IV of 1870, Sec. 86; Beng. Act IX of 1879; (locally), XVII of 1885.
	XLI	Stamp-duties, Bengal	Bengal	Rep., XVIII of 1869.
1859	I	Merchant Seamen	British India, except the Scheduled Districts, }	Rep. in part, XV of 1863; XIV of 1870; XVI of 1874; IV of 1875; XII of 1876; XIII of 1876; V of 1883.
	II	Amending Act XXX of 1858	Madras	Rep., VIII of 1868.
	III	Cantonment Joint-Magistrates	British India, except the Scheduled Districts. }	Rep., VIII of 1867.
	IV	Removal of Prisoners	British Territories in India.	Rep., VIII of 1868.

Year.	Number.	Subject-matter.	Extent of operation.	How repealed or otherwise determined.
1859	V	Ghat ali Lands, Birbhum	Bengal ...	
	VI	Ahmedabad Magtra cy ...	Bombay ...	Rep., XII of 1873.
	VII	Customs-duties ...	General ...	Rep., XVI of 1874.
	III	Civil Procedure ...	British India, except the Scheduled Districts.	Rep., X of 1877.
	IX	Claims to Property seized as forfeited.	British India, except the Scheduled Districts.	Rep. in part, VIII of 1868.
	X	Recovery of Rent, Bengal,	Presidency of Fort William, Bengal.	Rep., IX of 1883; VIII of 1885.
	XI	Sales of Land for Revenue arrears, Lower Provinces.	Lower Provinces of Bengal subject to the General Regulations.	Rep. in part, XIV of 1870; Bengal Act III of 1862; Bengal Act VI of 1868, Sec. 29.
	XII	Pilots, Calcutta ...	Presidency of Fort William, Bengal.	Rep. in part, XIV of 1870; X of 1873; Amended, VI of 1883.
	XIII	Fraudulent Breaches of Contract by Workmen.	Presidency towns and Straits Settlements.	Rep., in part, XVI of 1874. Extended to the Punjab by Notification No 579, dated 13th July 1859.
	XIV	Limitation of Suits ...	British India, except the Scheduled Districts.	Rep. in part, IX of 1871; I of 1877, which repeals the only unrepealed section (15).
	XV	Patents ...	Ditto ...	Rep., V of 1888.
	XVI	Nawab of Carnatic ...	Madras ...	Rep., XXXVII of 1860.
	XVII	Abkari, Bombay Town ...	Bombay ...	Rep., Bom. Act V of 1878.
	XVIII	Magistrates and Justices of the Peace.	General ...	Rep., X of 1875.
	XIX	Continuing Act XXVIII of 1857.	Places to which Act XXVIII of 1857 was extended.	Rep., VIII of 1868.

Year.	Number.	Subject-matter.	Extent of operation.	How repealed or otherwise determined.
1859	XX	Mapillas, Malabar ... {	Madras {	Rep. in part, XIV of 1870 ; Madras Act VII of 1869.
	XXI	Governor-General	General ...	Rep., VIII of 1868.
	XXII	Amending Act I of 1852 ...	Bombay ...	Rep., XIII of 1871.
	XXIII	Land Customs, Madras and Bombay. }	Madras & Bombay	Rep., XVI of 1874.
	XXIV	Police, Madras ... }	Madras ..	Rep. in part,— XVII of 1862 ; XIV of 1870 ; XVI of 1874.
	XXV	Native Passenger Vessels...	Bengal ...	Rep., VIII of 1876.
	XXVI	Continuing Act XXVIII of 1857. }	Places to which Act XXVIII of 1857 was extended.	Rep., VIII of 1868.
	XXVII	State Offences	General	Rep., VIII of 1868.
	XXVIII	Foreigners	Ditto	Rep., VIII of 1868.
1860	I	Duty on Salt, N.-W. Provinces	N.-W. Provinces.	Rep., VIII of 1875.
	II	Carriage of Passengers by Sea.	General	Rep., XII of 1885.
	III	Sessions Judges, Bengal ...	Presidency of Fort William, Bengal.	Rep., XVII of 1862.
	IV	Civil Procedure	Places in which Act VIII of 1859 is in force.	Rep., XXIII of 1861.
	V	Cattle Trespass	General	Rep., I of 1871.
	VI	Native Articles of War ...	Ditto	Rep., XXIX of 1861.
	VII	Joint Stock Banks	Ditto	Rep., X of 1866, Sec. 219.
	VIII	Electric Telegraphs ... }	British Territo- ries in India. }	Rep., I of 1876.
	IX	Disputes between Work- men and Employers. }	Places to which Act shall be extended. }	Rep., in part, IX of 1871. Extended to the Punjab by Notification No. 269, dated 9th May 1860.
	X	Customs-duties	General	Rep., VIII of 1868.
	XI	Indigo Contracts	Lower Provinces, Bengal.	Rep., VIII of 1868.
	XII	Emigration to Saint Vincent	{ British Territor- ies in India.	Rep., XIII of 1864.

Year.	Number.	Subject-matter.	Extent of operation.	How repealed or otherwise determined.
1860	XIII	Farakhabad Zila Court ...	Farakhabad ...	Rep., VIII of 1868.
	XIV	King of Oudh	General	
	XV	Calcutta Canals	Calcutta	Rep., XII of 1873.
	XVI	Amending Act XIV of 1856	Presidency Towns	Rep., XVI of 1874.
	XVII	Escaped Convicts	General	Rep., V of 1871.
	XVIII	Governor-General	Ditto	Rep., VIII of 1868.
	XIX	Port dues	Madras	Rep., XII of 1875.
	XX	Sir Jamsetjee Jejeebhoy ...	Bombay	
	XXI	Registration of Societies ...	British Territories in India.	Rep. in part, XVI of 1874.
	XXII	Chittagong Hill-tracts ... }	Bengal }	Rep. locally, XIV of 1874 ; Rep. in part, XVI of 1874 ; Beng. Act IV of 1863.
	XXIII	Abkari, Bengal }	Presidency of Fort William, Bengal. }	Rep. locally, X of 1871. Elsewhere, Bengal Act II of 1876.
	XXIV	Marriages by Scotch Ministers.	British Territories in India.	Rep., VIII of 1868.
	XXV	Port dues, Bassein	Burma	Rep., XII of 1875.
	XXVI	Administrator-General ...	General	Rep., XXIV of 1867.
	XXVII	Collection of Debts on Successions. }	British India, except the Scheduled Districts. }	Rep. in part, XVI of 1874. Rep., (Exc. as to Hindus Muhammadans and Buddhists, & persons exempted from Succession Act) XXIV of 1867, S. 2 Rep. in part, V of 1868.
	XXVIII	Boundary marks, Madras ...	Madras	Rep. in part, XIV of 1870.
	XXIX	Continuing Act XXVIII of 1857.	Places in which Act XXVIII of 1857 is in force.	Rep., VIII of 1868.
	XXX	Kunch and Kalpi	N.-W. Provinces...	Rep., VIII of 1868.
	XXXI	Arms Act	General	Rep., XI of 1878.
	XXXII	Income Tax	Ditto	Rep., VIII of 1868.

Year.	Number.	Subject-matter.	Extent of operation.	How repealed or otherwise determined.
1860	XXXIII	Emigration to Natal ...	British Territories in India.	Rep., XIII of 1864.
	XXXIV	Indemnity for acts during Mutiny.	General	
	XXXV	Transportation of Convicts	British Territories in India.	Rep., XVII of 1862.
	XXXVI	Stamp Act	Ditto	Rep., X of 1862.
	XXXVII	Repealing Act XVI of 1859	Madras	Rep., VIII of 1868.
	XXXVIII	Nawab of Carnatic... ..	Ditto	Rep., VIII of 1868.
	XXXIX	Income Tax	General	Rep., VIII of 1868.
	XL	Amending Act XXXVI of 1860.	British Territories in India.	Rep., X of 1862.
	XLI	Emigration to Saint Kitts	Ditto	Rep., XIII of 1864.
	XLII	Small Cause Courts, Mofussil	General	Rep., XI of 1865, Sec. 2.
	XLIII	Amending Act VIII of 1859	Places in which Act VIII of 1859 is in force.	Rep., XXIII of 1861.
	XLIV	Governor-General	General	Rep., VIII of 1868.
	XLV	Penal Code	British Territories in India.	Rep. in part, XIV of 1870 ; XXVII of 1870 ; XIX of 1872 ; VIII of 1882 ; X of 1882 ; X of 1886 ; IV of 1889 ; Amended XIV of 1886 ; I of 1889.
	XLVI	Emigration to French Colonies.	General	Rep., VII of 1871.
	XLVII	University Degrees... ..	Ditto	Rep. locally, Bengal Act IV of 1866, Sec. 2 ; Madras Act VIII of 1867, Sec. 81 ;
	XLVIII	Amending Act XIII of 1856	Presidency Towns and Straits Settlements.	Rep. in part, III of 1863 ; XIV of 1870 ; XVI of 1874 ; IV of 1877. Rep. locally in part, Bengal Act I of 1864, Sec. 1 ; Bombay Act IX of 1867.
	XLIX	Emigration to British Colonies.	British Territories in India.	Rep., XIII of 1864.
	L	Vacations in Civil Courts, Bengal.	Presidency of Fort William, Bengal.	Rep., VI of 1871.

Year.	Number.	Subject-matter.	Extent of operation.	How repealed or otherwise determined.
1860	LI	Amending Act XXXVI of 1860	British Territories in India.	Rep., X of 1862.
	LII	Amending Act XVIII of 1854	Presidency Towns.	
	LIII	Amending Act X of 1859...	Presidency of Fort William, Bengal.	Rep., VIII of 1868.
1861	I	Supreme Court, Bombay...	Bombay ...	Rep., VIII of 1868.
	II	Amending Act VI of 1857	General ...	Rep., X of 1870.
	III	Customs duty, Cochin ...	Madras ...	Rep., XIII of 1871.
	IV	Port dues, Calingapatam and Munsoorcottah.	Ditto ...	Rep., Madras Act VII of 1867.
	V	Police ...	Places to which Act shall be extended.	Rep. in part, IX of 1871 ; XVI of 1874 ; X of 1882. „ in part, locally, Bengal Act VII of 1869. Extended to the Punjab by Notification No. 971, dated 15th May 1861. Modified, Upper Burma, XX of 1886.
	VI	Commencement of Penal Code	British Territories in India.	Rep., VIII of 1868.
	VII	Salt duty, Bombay, ...	Bombay ...	Rep., XXIV of 1869.
	VIII	Port dues, Amherst ...	Amherst ...	Rep., IX of 1864.
	IX	Minors ...	British India, except the Scheduled Districts.	
	X	Repealing enactments relating to Civil Procedure	Places to which Act VIII of 1859 shall be extended	Rep., XIV of 1870.
	XI	Amending Act XIV of 1859	Places to which Act shall be extended.	Rep., VIII of 1868.
	XII	Amending Act XLII of 1860	General ...	Rep., XI of 1865, Sec. 2.
	XIII	Police ...	Places in which Act V of 1861 is in force.	Rep., VIII of 1868.
	XIV	Rohilkund ...	N.-W. Provinces...	{ Rep. in part, XIV of 1870. Rep. locally, XIV of 1874.
	XV	Port dues. Konkan Ports...	Bombay ...	Rep., Bombay Act XI of 1866.

Year.	Number.	Subject-matter.	Extent of operation.	How repealed or otherwise determined.
1861	XVI	Stage Carriages... ..	British India ...	Rep., in part, XIV of 1870 ; XVI of 1876.
	XVII	Customs duties, N.-W. Provinces.	N.-W. Provinces...	Rep., VIII of 1875.
	XVIII	License duty	British India ...	Rep., II of 1862.
	XIX	Paper Currency	Ditto	Rep., III of 1871.
	XX	Amending Act XXV of 1858	Bombay ...	Rep., Bombay Act II of 1865.
	XXI	Income Tax	General ...	Rep., VIII of 1868.
	XXII	Cattle Trespass	Ditto	Rep., I of 1871.
	XXIII	Civil Procedure	British India, except the Scheduled Districts.	Rep., X of 1877.
	XXIV	Banks of Bengal, Madras and Bombay.	Bengal, Madras and Bombay.	Rep., III of 1871.
	XXV	Criminal Procedure ...	Places to which it shall be extended.	Rep., X of 1872.
	XXVI	Occupation of Land, Malacca.	Malacca ...	
	XXVII	Andaman Islands ...	Andaman Islands.	Rep., Reg. 4th Sept. 1874.
	XXVIII	Merchant Seamen ...	General ...	Rep., XV of 1863.
	XXIX	Native Articles of War ...	Ditto ...	Rep., V of 1869.
	XXX	Bengal Military Orphan Society.	Bengal ...	Rep., VIII of 1868.
	XXXI	Saltpetre Manufacture ...	N.-W. Provinces & places to which it shall be extended.	Rep., XII of 1876.
	XXXII	Limitation	Places to which Act XIV of 1859 shall be extended	Rep., VIII of 1868.
	XXXIII	Amending Schedule to Act XXV of 1861.	Places to which Act XXV of 1861 has been extended.	Rep., VIII of 1869.
1862	I	Continuing Act XXXIII of 1857.	British India ...	Rep., VIII of 1868.
	II	Repealing Act XVIII of 1861.	Ditto ...	Rep., VIII of 1868.

Year.	Number.	Subject-matter.	Extent of operation.	How repealed or otherwise determined.
1862	III	Government Seal ... }	British India, except the Scheduled Districts.	
	IV	Bank of Bengal	General	Rep., XI of 1876.
	V	Payment at Presidency Banks.	Ditto	Rep., XI of 1876.
	VI	Annexing Schedule to Act IV of 1862.	Ditto	Rep., XI of 1876.
	VII	Amending Act XLVI of 1860	Ditto	Rep., VII of 1871.
	VIII	King of Oudh	Ditto	Rep., in part, XIII of 1868.
	IX	Income Tax	Ditto	Rep., VIII of 1868.
	X	Stamp duties	British Territories in India.	Rep., VII of 1870.
	XI	Amending Act X of 1860.	General	Rep., VIII of 1868.
	XII	Repealing in part Act II of 1835.	Arrakan, &c. ...	Rep., VIII of 1868.
	XIII	Silver and Copper Coinage	British India ...	Rep., XXIII of 1870.
	XIV	Amending Act XIV of 1859 }	Places to which Act XIV of 1859 shall be extended.	Rep., VIII of 1868.
	XV	Amending Code of Criminal Procedure. }	Places to which the Code of Criminal Procedure shall be extended.	Rep., VIII of 1869.
	XVI	Income Tax	General	Rep., VIII of 1868.
	XVII	Repealing Enactments, relating to Criminal Law. }	Places to which Code of Criminal Procedure shall be extended.	Rep., X of 1872.
	XVIII	Criminal Procedure, Supreme Courts. }	H. M.'s Supreme Courts.	Rep., X of 1882.
	XIX	Contraband Salt, Oudh ...	Oudh	Rep., VIII of 1875.
	XX	Presidency High Courts. }	High Court of Fort William, Bengal ... }	Rep., X of 1877.
	XXI	Subordinate Medical Officers Widows' and Orphans' Fund.	General	Rep., VIII of 1868.
	XXII	Emigration to Seychelles...	British Territories in India.	Rep., XIII of 1864.

Year.	Number.	Subject-matter.	Extent of operation.	How repealed or otherwise determined.
1862	XXIII	Customs duties ...	General ...	Rep., XIV of 1870.
	XXIV	Continuing Act XX of 1862,	High Court, Bengal.	Rep., X of 1877.
1863	I	Civil Courts, Burma ...	British Burma ...	Rep., VII of 1872.
	II	Appeals to Queen in Council.	Non-Regulation Provinces.	Rep., VI of 1874.
	III	Police, Straits Settlements.	Straits Settlements,	
	IV	Effectuating Treaty with { Burma.	General {	Rep., XX of 1886.
	V	Amending Act XXIX of 1861	Ditto ...	Rep., V of 1869.
	VI	Sea Customs {	British India, except the Scheduled Districts. {	Rep., VIII of 1878.
	VII	Emigration to Saint Croix...	British Territories in India.	Rep., XIII of 1874.
	VIII	Confinement of Prisoners sentenced by Courts.	Ditto	Rep., V of 1871.
	IX	Amending Code of Civil Procedure.	Non-Regulation Provinces.	Rep., X of 1877.
	X	Darjeeling	Darjeeling ...	Rep., XIX of 1867.
	XI	Peons for service of Process.	N.-W. Provinces,	Rep., VII of 1870.
	XII	Mahoba and Jeitpur ...	N.-W. Provinces,	Rep., XV of 1874.
	XIII	Imprisonment of Convicts, Bombay Town.	Bombay ...	Rep., XII of 1876.
	XIV	Amending Act X of 1859 in N.-W. Provinces. {	N.-W. Provinces {	Rep., XII of 1876 ; IX of 1883.
	XV	Merchant Seamen ...	General ...	Rep., IV of 1875.
	XVI	Excise on spirits used exclusively in Manufactures {	British India, except the Scheduled Districts. {	Rep. in part, XI of 1882.
	XVII	Municipal Commissioners, Straits Settlements.	Straits Settlements	
	XVIII	Master in Equity ; Process of High Courts. {	High Court, Bengal. {	Rep., X of 1877.
	XIX	Partition of Revenue paying Estates. {	N.-W Provinces. {	Rep., locally, XIX of 1873 ; " in part, XIV of 1870 ; XVIII of 1876.

Year.	Number.	Subject-matter.	Extent of operation.	How repealed or otherwise determined.
1863	XX	Religious Endowments ...	General ...	Rep. in part, VII of 1870; XIV of 1870; XVI of 1874.
	XXI	Recorder's Court, Burma ...	British Burma ...	Rep., VII of 1872.
	XXII	Acquisition of Land for certain Works of Public utility	General ...	Rep., X of 1870.
	XXIII	Claims to waste Lands ...	British India, except the Scheduled Districts.	Rep. in part, IX of 1871.
	XXIV	Burma Courts ...	British Burma ...	Rep., VII of 1872.
	XXV	Imprisonment of Convicts, Calcutta.	Bengal ...	Rep., XII of 1867.
	XXVI	Customs duties ...	General ...	Rep., VIII of 1868.
	XXVII	Income Tax ...	Ditto ...	Ditto.
	XXVIII	Stamp duties, Straits Settlements.	Straits Settlements	
	XXIX	Receipts of Presidency Banks	General ...	Rep., XI of 1876.
	XXX	Claims against Native Government of Oudh.	Ditto ...	Rep., VIII of 1868.
	XXXI	Official Gazette ...	British India, except the Scheduled Districts.	
	XXXII	Continuing Act XX of 1862	High Court, Bengal	Rep., X of 1877.
1864	I	Purwa and Khadi ...	N.-W. Provinces ...	Rep., XV of 1874.
	II	Aden ...	Aden.	
	III	Foreigners ...	British India, except the Scheduled Districts.	Rep., in part, XII of 1876
	IV	Small Cause Court Karrachi	Karrachi ...	Rep., VIII of 1868.
	V	Extension of Civil Procedure Code to Sind.	Sind ...	Ditto.
	VI	Whipping ...	British India, except the Scheduled Districts.	Rep. in part, X of 1872; XVI of 1874 X of 1882. Modified, Upper Burma XX of 1886.
	VII	Salt, Central Provinces ...	Central Provinces	Rep., VIII of 1875.
	VIII	Comptoir d'Escompte of Paris	British India.	
	IX	Repealing Act VIII of 1861	Amherst ...	Rep., VIII of 1868.
	X	Abkari, Bengal ...	Provinces under immediate administration of Governor-General in Council	Rep., X of 1871.

Year.	Number.	Subject-matter.	Extent of operation.	How repealed or otherwise determined.
1864	XI	Native Law Officers ...	General ...	Rep., VIII of 1868.
	XII	Effectuating Act IV of 1863	Ditto ...	Rep., XX of 1886.
	XIII	Emigration of Native Labourers.	Ditto ...	Rep., VII of 1871.
	XIV	Joint Judge of the Konkan	Bombay ...	Rep., VIII of 1868.
	XV	Tolls on Public Roads and Bridges.	Presidencies of Bengal, Madras and Bombay.	Rep., locally, Bombay Act III of 1875.
	XVI	Registration of Assurances	Ditto ...	Rep., XX of 1866, Sec. 3.
	XVII	Official Trustee ...	Ditto ...	Rep., in part, XIV of 1870; XII of 1876.
	XVIII	Municipal Committee, Lucknow.	Lucknow ...	Rep., XV of 1873.
	XIX	Mirzapur ...	N. W. Provinces	Rep., (except in Scheduled Districts), XIV of 1874; Rep., in part, XVI of 1874.
	XX	Minors, Bombay ...	Bombay ...	
	XXI	Police Magistrates...	Calcutta ...	Rep., IV of 1877.
	XXII	Military Cantonments ...	Presidency of Fort William, Bengal ...	Rep., III of 1880.
	XXIII	Customs duties ...	General ...	Rep., VIII of 1868.
	XXIV	Non-Regulation Districts, N.-W. Provinces.	N. W. Provinces...	Rep., XV of 1874.
	XXV	Marriage of Christians ...	British India ...	Rep., V of 1865.
	XXVI	Small Cause Courts, Presidency Towns.	Presidency Towns,	Rep., XV of 1882.
	XXVII	Justices of the Peace ...	General ...	Rep., II of 1869.
	XXVIII	Abkari ...	Punjab ...	Rep., X of 1871.
1865	I	Extension of Enactments to Non-Regulation Provinces	Non Regulation Provinces	Rep., XV of 1874.
	II	Rural Police, N. W. Provinces	N. W. Provinces...	Rep., III of 1869.
	III	Common Carriers. ...	British India, except Scheduled Districts.	Rep., as to carriers by rail, IV of 1879.
	IV	Administrator-General ...	General ...	Rep., XXIV of 1867.
	V	Marriage of Christians ...	British Territories in India ...	Rep., (except as to Straits), XV of 1872.
	VI	Continuing Arms Act ...	General ...	Rep., VI of 1866.

Year.	Number.	Subject-matter.	Extent of operation.	How repealed or otherwise determined.
1865	VII	Government Forests ...	Bengal, N. W. Provinces, Punjab & places under immediate administration of G. G. in Council ...	Rep., VII of 1878. XIX of 1881.
	VIII	Validating Imprisonment of certain Persons ...	High Courts of Judicature	Rep., V of 1871.
	IX	Registration of Assurances	Presidencies of Bengal, Madras and Bombay ...	Rep., XX of 1866, Sec 3.
	X	Intestate and Testamentary Succession ...	British India	Rep. in part, XXIV of 1867; VII of 1870; XV of 1877; VI of 1881.
	XI	Small Cause Courts, Mofussil ...	British India, except Scheduled Districts	Rep., IX of 1887.
	XII	Prisoners in Calcutta ...	Limits of High Court, Bengal ...	Rep., XII of 1867.
	XIII	Criminal Procedure, High Courts ...	High Courts of Judicature	Rep., X of 1875.
	XIV	Civil Courts, Central Provinces ...	Central Provinces	Rep., XVI of 1885.
	XV	Parsi Marriages and Divorces ...	British India, except Scheduled Districts ...	Rep. in part, VII of 1870; XIV of 1870; XII of 1876; Amended, VI of 1886.
	XVI	Revenue Courts, Oudh ...	Oudh ...	Rep., XXXII of 1871.
	XVII	Customs duties ...	General ...	Rep., XXV of 1865.
	XVIII	Stamps duties ...	British Territories in India ...	Rep., VII of 1870.
	XIX	Punjab Courts ...	Punjab ...	Rep., XVII of 1877,
	XX	Pleaders and Mukhtars...	Bengal & N. W. Provinces ...	Rep., XVIII of 1879.
	XXI	Intestate Succession, Parsis	British India, except Scheduled Districts ...	
	XXII	Amending Act XVIII of 1864 ...	Lucknow ...	Rep., XV of 1873.
	XXIII	Punjab Chief Court ...	Punjab ...	Rep., XII of 1873.

Year.	Number.	Subject-matter.	Extent of operation.	How repealed or otherwise determined.
1835	XXIV	Warrants of Attorney and Cognovits.	High Courts of Judicature.	Rep., XVI of 1874.
	XXV	Customs duties ...	General ...	Rep., VIII of 1868.
	XXVI	Amending Native Articles of War.	Ditto	Rep., V of 1869.
	XXVII	Civil Appeals, Punjab ...	Punjab ...	Rep., IV of 1866, Sec. 52.
	XXVIII	Insolvent Traders, Bombay	Bombay ...	Rep., VIII of 1868.
	XXIX	Amending Pleaders' Act, 1865.	Bengal and N. W. Provinces. }	Rep., XVIII of 1879.
	XXX	Madras Irrigation Company	Madras ...	Rep. in part, XVI of 1874.
1866	I	Government Paper Currency	British India ...	Rep., III of 1871.
	II	Rural Police, N.-W. Provinces }	N.-W. Provinces,	Rep., III of 1869.
	III	Registrars, Recorders' Courts, Burma. }	British Burma ...	Rep., VII of 1872.
	IV	Chief Court, Punjab ...	Punjab ...	Rep., XVII of 1877.
	V	Bills of Exchange : Commercial Law. }	British India, except Scheduled Districts. }	Rep. in part, XIV of 1870 ; IX of 1871 : Schedule 2, No. 5 ; IX of 1872 ; X of 1877 ; XXVI of 1881.
	VI	Continuing Arms Act ...	General ...	Rep., XI of 1878.
	VII	Extending Act XXIII of 1840 to Straits Settlements	Straits Settlements	
	VIII	Criminal Procedure ... }	Places in which Code of Criminal Procedure is in force. }	Rep., VIII of 1869.
	IX	Extending Pleaders' Act to Sadr Court, N.-W. Provinces. }	N. W. Provinces }	Rep., XVIII of 1879.
	X	Trading Companies ... }	British India, except Scheduled Districts. }	Rep., VI of 1882.
	XI	Repealing Act IV of 1855...	Assam ...	Rep., XIV of 1870.
	XII	Private water-courses ...	General ...	Rep., XII of 1876.
	XIII	Limitation of certain Suits, Oudh.	Oudh ...	Rep., XXXII of 1871.

Year.	Number.	Subject-matter.	Extent of operation.	How repealed or otherwise determined.
1866	XIV	Post Office	British India ... }	Rep. in part, XIV of 1870; XII of 1876; III of 1882.
	XV	Partnership... ..	Ditto ...	Rep., IX of 1872.
	XVI	Signing Commissioners under Act XIII of 1865.	High Courts of Judicature.	Rep., X of 1875.
	XVII	Indian Museum, Calcutta...	General ...	
	XVIII	Customs duty on Saltpetre	British India ...	Rep., VIII of 1868.
	XIX	Salt, Madras	Madras ...	Rep., XXIV of 1869.
	XX	Registration of Assurances {	Places in which Act XVI of 1864 is in force. }	Rep., VIII of 1871.
	XXI	Dissolution of Native Converts' Marriages. {	British India, except Scheduled Districts. }	Rep. in part, VII of 1870; XVI of 1874.
	XXII	Extending Marriage Act ...	Hyderabad Assigned District.	Rep., XV of 1872.
	XXIII	Correcting Bombay High Court Letters Patent.	Bombay ...	
	XXIV	Procedure of High Court, N.-W. Provinces.	N.-W. Provinces...	Rep., X of 1877.
	XXV	Transfer of certain Securities to Government. }	Presidency Towns and Straits Settlements. }	Rep., in part XXIV of 1867. XVI of 1874; XII of 1876.
	XXVI	Subordinate Proprietors, Oudh.	Oudh ...	Rep. in part, XIV of 1870.
	XXVII	Conveyance of Property vested in Mortgagees and Trustees. }	British India ... }	Rep. in part, XIV of 1870; XVI of 1874; IV of 1882.
	XXVIII	Powers of Mortgagees and Trustees. }	British India, except Scheduled Districts. }	Rep., in part, XVI of 1874; II of 1882; VII of 1882.
	XXIX	Court of Requests, Straits Settlements.	Straits Settlements	
	XXX	Excise Revenue, Strait Settlements.	Ditto	
1867	I	Ganges Tolls	N.-W. Provinces...	
	II	Removal of Prisoners ...	British India ...	Rep., V of 1871.

Year.	Number.	Subject-matter.	Extent of operation.	How repealed or other wise determined.
1867	III	Public Gambling ...	N. W. Provinces, Punjab, Oudh, Central Provinces and British Burma.	Rep., in part, XIV of 1874. Amended locally, XVI of 1884.
	IV	Meaning of "offence" ...	British India ...	Rep., XXVII of 1870.
	V	Extending Penal Code to Straits Settlements.	Straits Settlements	
	VI	Limits of Districts, Punjab	Punjab ...	Rep., XVII of 1887.
	VII	Purchasing Arms, &c., from Soldiers.	British India ...	Rep., XVI of 1888.
	VIII	Horse-racing ...	General ...	Rep., IX of 1872.
	IX	Comptoir d'Escompte of Paris	British India ...	
	X	References by Mofussil Small Cause Courts.	British India, except Scheduled Districts.	Rep., X of 1877.
	XI	Oriental Gas Company ...	British India ...	
	XII	Custody of Prisoners, Presidency Towns.	Presidency Towns	Rep., V of 1871.
	XIII	Burma Coast-lights ...	British Burma ...	Rep., IX of 1879.
	XIV	Pandhari Tax, Central Provinces.	Central Provinces	Rep. in part, XVI of 1874.
	XV	Municipal Committees, Punjab, Oudh, Central Provinces.	Punjab, &c.	Rep., as to Punjab, IV of 1873 ; Oudh, XV of 1873, Sec. 2 ; Gen. Prov., XI of 1873, Sec., 2.
	XVI	Acting Judges ...	British India ...	
	XVII	Customs duties ...	British Territories in India.	Rep., XVII of 1870.
	XVIII	Jhansi Courts ...	Jhansi, N.-W. Provinces.	Rep. in part XIV of 1870 ; XVI of 1874.
	XIX	Darjeeling ...	Darjeeling, Bengal,	Rep. in part, XVI of 1874.
	XX	Transshipment of certain goods.	British India ...	Rep., VI of 1873.
	XXI	Licensing Professions and Trades.	Ditto ...	Rep., IX of 1868.
	XXII	Sarais and Putaos ...	N.-W. Provinces	Extended to Punjab by Notification No. 4499, dated 13th Dec. 1878.
	XXIII	Murderous Outrages, Punjab	Punjab ...	Rep. in part, XVI of 1874 ; Revived, IX of 1877.

Year.	Number.	Subject-matter.	Extent of operation.	How repealed or otherwise determined.
1867	XXIV	Administrator-General ...	General ...	Rep., II of 1874.
	XXV	Printing Presses and Books	British India, except Scheduled Districts ...	Rep. in part, XIV of 1870.
	XXVI	Stamp duties ...	General ...	Rep., X of 1877.
	XXVII	Deputy Commissioners ...	Central Provinces, Punjab, Oudh & Jhansi ...	{ Rep., in Oudh, XXXII of 1871 ; in Punjab, XVII of 1877 ; in C. Provinces, XVI of 1885.
	XXVIII	Petty Sessions Courts, N. W. Provinces.	N.-W. Provinces...	Rep., X of 1872.
	XXIX	Amending Act XXI of 1867	British India ...	Rep., IX of 1868.
	XXX	Paper Currency ...	Ditto ...	Rep., III of 1871.
	XXXI	Certain offences of Railway Servants.	General ...	Rep., IV of 1879.
	XXXII	Chief Commissioners' Powers.	Oudh, Cenl. Provinces, and British Burma ...	
	XXXIII	Amending Act XXXI of 1861.	N.-W. Provinces and places to which Act XXXI of 1861 shall be extended ...	{ Rep., VIII of 1875.
	XXXIV	Local Repeal of Act XIX 1866.	Madras ...	Rep., XIV of 1870.
	XXXV	Financial Commissioner, Punjab.	Punjab ...	Rep., XIV of 1870.
	XXXVI	Correcting Act XVII of 1862	General ...	Rep., X of 1872.
	XXXVII	Appeals, Oudh ...	Oudh ...	Rep., XI of 1871.
1868	I	General Clauses ...	General ...	{ Rep. in part, I of 1872 ; Amended, I of 1887.
	II	Pepper exported from Cochin	Madras ...	Rep., XIII of 1871.
	III	Powers of Assistant Commissioner, Punjab.	Punjab ...	Rep., XVII of 1877.
	IV	Exempting certain Bombay villages from Genl. Regulations.	Bombay ...	{ Rep., (except in Scheduled Districts), XIV of 1874.
	V	Commissioner in Sindh,	Ditto ...	
	VI	Municipalities, N.-W. Provinces.	N.-W. Provinces...	Rep., XV of 1873.
	VII	Appeals and Reviews, Punjab	Punjab ...	Rep., IX of 1873.

Year.	Number.	Subject-matter.	Extent of operation.	How repealed or otherwise determined.
1868	VIII	Repealing Obsolete En-actments.	General ...	Rep., XIV of 1870.
	IX	Taxing Professions and Trades.	British India ...	Rep., IX of 1869.
	X	Amending Consolidated Customs Act.	British India, except Scheduled Districts.	Rep., VIII of 1878.
	XI	Exempting Timber from Import-duty.	British India ...	Rep., XIV of 1870.
	XII	Power to suspend Act XI of 1841, S. 17.	General ...	Rep., VIII of 1887.
	XIII	King of Oudh ...	Ditto ...	Rep. in part, XIV of 1870.
	XIV	Contagious Diseases ...	Places specified by notification in official Gazette.	Rep., IX of 1888.
	XV	Stamps, High Courts ...	Presidency Towns.	Rep., VII of 1870.
	XVI	P. S. Amins, &c., Bengal	Bengal and N.-W. Provinces.	Rep., VI of 1871.
	XVII	Failure of Bank of Bombay.	General ...	Rep., XIV of 1870.
	XVIII	Small Cause Jurisdiction, Nilgiris.	Madras ...	Rep. in part, XIV of 1870; XVI of 1874.
	XIX	Rent, Oudh ...	Oudh ...	Rep., XXII of 1886.
	XX	Duties in Lucknow ...	Lucknow ...	Rep., XIV of 1870.
	XXI	Nawáb of Carnatic ...	Madras ...	
	XXII	Mauza Kheria ...	N.-W. Provinces...	Rep., XV of 1874.
	XXIII	Abkari, British Burma ...	British Burma ...	Rep., X of 1871.
	XXIV	Inoculation, Kumaon and Garhwal.	N.-W. Provinces.	
	XXV	Coorg Courts ...	Coorg ...	Rep., Reg. II of 1881.
	XXVI	Municipal Lock-Hospitals.	British India ...	Rep., IX of 1883.
	XXVII	Registration ...	Places in which Registration Act is in force.	Rep., VIII of 1871.
	XXVIII	Tenancy ...	Punjab ...	Rep., XVI of 1887.

Year.	Number.	Subject-matter.	Extent of operation	How repealed or otherwise determined.
1869	I	Taluqdars, Oudh ...	Oudh ...	Rep. in part, X of 1885.
	II	Justices of the Peace ...	British India ...	Rep., X of 1882.
	III	Rural Police, N.-W. Provinces	N.-W. Provinces...	Rep., XVI of 1873.
	IV	Divorce ...	{ British India and States in alliance with Her Majesty. }	Rep. in part, VII of 1870 ; XII of 1873 ; (Locally) XVIII of 1884.
	V	Native Articles of War ...	General ...	Rep. in part, XIV of 1870.
	VI	Emigration ...	British India ...	Rep., VII of 1871.
	VII	Forests, British Burma ...	British Burma...	{ Rep. VII of 1878 ; XIX of 1881. }
	VIII	Criminal Procedure ...	{ Places in which Code of Criminal Procedure is in force ... }	Rep., X of 1872.
	IX	Income Tax ...	British India ...	Rep., XVI of 1870.
	X	Police Superannuation Funds. }	{ Places in which Act V of 1861 is in force ... }	Rep., XII of 1873.
	XI	Land Customs, Madras and Bombay. }	Madras & Bombay	Rep., XI of 1882.
	XII	Customs-duties ...	British India ...	Rep., XVII of 1870.
	XIII	Procedure of High Court N.-W. Provinces. }	N.-W. Provinces...	Rep. in part, X of 1875.
	XIV	Civil Courts, Bombay ...	Bombay ...	{ Rep. in part, XIV of 1870 ; XII of 1876 ; XVII of 1879, S. 5 ; IX of 1880. }
	XV	Evidence of Prisoners ...	{ British India, except the Scheduled Districts. }	{ Rep. in part, XVI of 1874 ; XVII of 1875 ; X of 1877 ; in part, locally, VII of 1872, Sec. 78. }
	XVI	Bhután Dvārs ...	Bhutan Dvārs ...	Rep. in part, XVI of 1874.
	XVII	Landing Cargo ...	General ...	Rep., VIII of 1878.
	XVIII	Stamp-duties ...	British India ...	Rep., I of 1879.

Year.	Number.	Subject-matter.	Extent of operation.	How repealed or otherwise determined.
1869	XIX	Administrator-General ...	Hyderabad Assign- ed Districts. }	Rep., II of 1874.
	XX	Volunteers ...	British India and States in al- liance with Her Majesty. ... }	Rep. in part, XVI of 1870; IX of 1871; XVI of 1874.
	XXI	European Vagrancy ...	Ditto ...	Rep., IX of 1874.
	XXII	Garro Hills ...	Garro Hills ... }	Rep., (except as to Sched- uled Districts), XIV of 1874.
	XXIII	Income-tax ...	British India ...	Rep., XVI of 1870.
	XXIV	Salt, Madras and Bombay, {	Madras & Bom- bay. ... }	Rep., XVIII of 1877.
	XXV	Salt, N.-W. Provinces, Punjab, &c. {	N.-W. Provinces, Punjab, Oudh & Central Provinces }	Rep., VIII of 1875.
	XXVI	Correcting Act VIII of 1863, {	British Terri- tories in India... }	Rep., V of 1871.
1870	I	Quarantine Rules ...	British India ex- cept the Sched- uled Districts. }	
	II	Subordinate Judges and Munsifs, Bengal. }	Presidency of Fort William ... }	Rep., VI of 1871.
	III	Agror Valley ... }	Agror Valley, { Punjab. ... }	Rep., IV of 1872.
	IV	Appeals to Assistant Com- missioner, Kullu. }	Kullu Sub-divi- sion, Punjab.... }	Rep., V of 1874.
	V	Costs of certain Petitions. }	High Courts, Pre- sidency Towns. }	Rep. in part, II of 1874; XVI of 1874.
	VI	Fees for Registration of Emigrants. }	General ...	Rep., VII of 1871- Rep. in part, XIV of 1870; XVI of 1870; XX of 1870; VIII of 1871; XV of 1872; V of 1881; XVII of 1887; Amended (locally) XVIII of 1884.
	VII	Court Fees ...	British India ... }	
	VIII	Murder of Female Infants. {	N.-W. Provinces, Punjab & Oudh. }	
	IX	Elphinstone Land Company,	Bombay ...	Rep., XII of 1873.
	X	Acquisition of Land for Public Purposes. }	British India ... }	Rep. in part, IX of 1871; XII of 1876; XIII of 1879; Amended (locally) XVII; of 1884.

Year.	Number.	Subject-matter.	Extent of operation.	How repealed or otherwise determined.
1870	XI	Weights and Measures ...	British India ...	Rep., XII of 1873.
	XII	Native Passenger Ships ...	Ditto	Rep., VIII of 1876.
	XIII	State Railways	General ...	Rep., IV of 1879.
	XIV	Repealing Obsolete Enactments.	Ditto	Rep., XII of 1873.
	XV	Paper-Currency	British India ...	Rep., III of 1871.
	XVI	Income-tax	Ditto	Rep., XII of 1871.
	XVII	Customs-duties	Ditto	Rep., XIII of 1871.
	XVIII	Power to exempt from Customs-duties. ...	Ditto	Rep., XVI of 1875.
	XIX	Bank of Bengal ...	General ...	Rep., XI of 1876.
	XX	Amending Court-fees Act...	British India ...	
	XXI	Wills of Hindus, &c. ...	Lower Provinces of Bengal and Towns of Madras and Bombay	Rep. in part, V of 1881.
	XXII	European British Subjects	General	Rep., X of 1882.
	XXIII	Coinage and the Mint ...	Ditto	Rep. in part, XII of 1873 ; XII of 1876.
	XXIV	Relief of Oudh Taluqdars...	Oudh ...	
	XXV	Timber-duty, Maulmain ...	Maulmain ...	Rep., XII of 1873.
	XXVI	Prisons	N.-W. Provinces, Punjab, Oudh, Central Provinces, and British Burma.	Rep. in part, XII of 1873 ; XVI of 1874 ; XIV of 1878.
	XXVII	Amending Penal Code	British India ...	Rep. in part, X of 1872.
	XXVIII	Commitments from Andamans.	Andamans ...	Rep. in part, XII of 1873.
1871	I	Cattle-trespass ...	British India except Presidency Towns, &c.	Rep. in part, XVI of 1874 ; Amended, XVIII of 1883.
	II	Extending Prisons' Act to Coorg.	Coorg	Rep. in part, XVI of 1874.
	III	Paper Currency	British India ...	Rep., XX of 1882.
	IV	Coroners ...	Local limits of ordinary original Civil Jurisdiction of Presidency High Courts.	Rep in part, IX of 1871 ; X of 1873 ; XII of 1873 ; XVI of 1874 ; X of 1881 ; V of 1889 .

Year.	Number.	Subject-matter.	Extent of operation.	How repealed or otherwise determined.
1871	V	Prisoners	British India ...	Rep. in part, XII of 1873 ; XVI of 1874 ; IX of 1882 ; X of 1886.
	VI	Civil Courts, Bengal ...	Lower Bengal & N. W. Provinces.	Rep., XII of 1887.
	VII	Emigration	British India ...	Rep., XXI of 1883.
	VIII	Registration of Documents	British India except districts specially excluded from its operation.	Rep., III of 1877.
	IX	Limitation	British India ...	Rep., XV of 1877.
	X	Excise, Northern India, Burma, Coorg.	N.-W. Provinces, Punjab, Central Provinces, British Burma and Coorg.	Rep., XXII of 1881.
	XI	Financial Commissioner, Oudh.	Oudh	Rep., XXXII of 1871.
	XII	Income-tax	British India ...	Rep., XVI of 1874.
	XIII	Customs duties	British India, except Aden.	Rep., XVI of 1875.
	XIV	Amending Consolidated Customs Act.	General	Rep., VIII of 1878.
	XV	Relief of Broach Thakurs...	Broach	Rep., XIV of 1877.
	XVI	Survey of Steamers, Burma	British Burma ...	Rep., VI of 1884.
	XVII	Rates on Land, Oudh ...	Oudh	Rep., IV of 1878.
	XVIII	Rates on Land, N. W. Provinces.	N. W. Provinces...	Rep., III of 1878.
	XIX	Sessions Judges, Bengal and N.-W. Provinces.	Bengal and N.-W. Provinces.	Rep. in part, X of 1872.
	XX	Rates on Land, Punjab ...	Punjab	Rep. V of 1878.
	XXI	Dehra Dun	Dehra Dun except Jaunsar Bawar.	Rep. in part, XVI of 1874.
	XXII	Chaukidars, N.-W. Provinces.	Bengal Presidency except Lower Bengal.	
	XXIII	Pensions	British India	
	XXIV	Local Public Works Loans...	Ditto	Rep., XI of 1879.

Year.	Number.	Subject-matter.	Extent of operation.	How repealed or otherwise determined.
1871	XXV	Amending Railway Act ...	British India ...	Rep., IV of 1879.
	XXVI	Advances for agricultural improvements ...	Ditto ...	Rep., XIX of 1883.
	XXVII	Criminal Tribes and Eunuchs ...	Sections 1 to 20 to whole of British India, rest of the Act to N.-W. Provinces, Punjab, and Oudh.	Rep. in part, XVI of 1874; XII of 1876.
	XXVIII	European Vagrants ...	General ...	Rep., IX of 1874.
	XXIX	Repealing Bengal Regulations.	Wherever Bengal Regulations are in force.	Rep., XII of 1873.
	XXX	Canals and Drainage, Punjab	Punjab ...	Rep., VIII of 1873.
	XXXI	Weights and Measures ...	British India.	
	XXXII	Civil Courts, Oudh ...	Oudh ...	Rep., XIII of 1879; XXII of 1886.
	XXXIII	Land Revenue, Punjab ...	Punjab ...	Rep., XVII of 1887.
1872	I	Evidence ...	British India ...	Rep. in part, XVIII of 1872; III of 1887. Mod. (Upper Burma) XX of 1886.
	II	Reviving Act XV of 1867 ...	Punjab ...	Rep., IV of 1873.
	III	Marriage ...	British India ...	Rep. in part, XVI of 1874; XII of 1876; Amended, VI of 1886.
	IV	Laws, Punjab ...	Punjab ...	Rep. in part, XV of 1875; I of 1878; VI of 1878; XII of 1878; X of 1879; XXIV of 1881; X of 1882; XVII of 1887.
	V	Sindh ...	Sindh ...	
	VI	Oaths and Affirmations ...	British India ...	Rep., X of 1873.
	VII	Courts, British Burma ...	British Burma ...	Rep., XVII of 1875.
	VIII	Income-tax ...	British India ...	Rep., XVI of 1874.
	IX	Contract Law ...	Ditto	Rep. in part, I of 1877; IV of 1886.
	X	Criminal Procedure ...	British India, save High Courts and Police Magistrates in Presidency Towns, except as provided.	Rep., X of 1882.

Year.	Number.	Subject-matter.	Extent of operation.	How repealed or otherwise determined.
1872	XI	Extradition ...	British India, Native subjects beyond and without British India and European British subjects within Indian States in alliance with Her Majesty.	Rep., XXI of 1879.
	XII	Native Passenger Ships ...	British India ...	Rep., VIII of 1876.
	XIII	Patterns and designs ...	Ditto ...	Rep., V of 1888.
	XIV	Exempting Straits Settlements from Emigration Act.	Straits Settlements.	Rep., V of 1877; XXI of 1883.
	XV	Marriage of Christians ...	British India and Native States in alliance with Her Majesty.	Rep. in part, XVI of 1874. Amended, VI of 1886.
	XVI	Spirit duty, Burma...	British Burma ...	
	XVII	Postponing commencement of Code of Criminal Procedure ...	British India ...	Rep., XII of 1873.
	XVIII	Amending Evidence Act ...	Ditto ...	Rep. in part, X of 1873; XVI of 1874; XII of 1876.
	XIX	Definition of 'Coin,' Penal Code. ...	Ditto ...	
	XX	Amending Act V of 1872 ...	Sindh ...	
	XXI	Lunatic Sepoys ...	British India ...	Rep., XI of 1877.
	XXII	Amending Act X of 1859	Presidency of Fort William Bengal.	Rep., XVIII of 1873; IX of 1883.
	XXIII	Re-importation of certain goods cleared at Rangoon,	General ...	Rep., XX of 1886.
	XXIV	Repealing Bombay Reg. XIII, 1827, S. 34, cl. 9	Bombay ...	Rep., XII of 1873.
	XXV	Salt, Punjab...	Punjab ...	Rep., VIII of 1875.
	XXVI	Opium, Punjab ...	Ditto ...	Rep., I of 1878.
	XXVII	Criminal Procedure Code, Sindh ...	Sindh ...	Rep., XVI of 1874.
1873	I	Burma Courts ...	British Burma ...	Rep., XVI of 1875.
	II	Burma Ferries ...	Ditto ...	Rep. in part, XVI of 1874.
	III	Civil Courts, Madras ...	Madras ...	Rep. in part, XII of 1873; XIX of 1874; XXI of 1885; VII of 1887; IX of 1887.

Year.	Number.	Subject-matter.	Extent of operation.	How repealed or otherwise determined.
1873	IV	Municipalities, Punjab ...	Punjab ...	Rep. in part, XII of 1873 ; XVI of 1874. Rep., XIII of 1884 (<i>qua</i> the local areas to which the new Act is extended).
	V	Savings Banks	British India ...	Rep. in part, XII of 1873 ; XVI of 1874.
	VI	Transshipment of goods ...	{ Ports of Calcutta, Madras and Bom- bay, and certain other British In- dia Ports. }	Rep., VIII of 1878.
	VII	Port-dues, Burma	British Burma ...	Rep., XII of 1875.
	VIII	Canals & Drainage, North- ern India.	{ N.-W. Provinces, Punjab, Oudh, and Central Pro- vinces. }	Rep. in part, XII of 1873; XVI of 1874; XVI of 1887.
	IX	Appeals, Punjab	Punjab ...	Rep., XVII of 1877.
	X	Oaths	{ British India and as regards sub- jects of Her Majesty, Terri- tories of Native States in alliance with Her Ma- jesty. }	Rep. in part, XII of 1873; XVI of 1876.
	XI	Municipalities, Central Provinces.	Central Provinces.	Rep. in part, XVI of 1874.
	XII	Obsolete Enactments Repeal	General ...	Rep., XVI of 1874.
	XIII	Timber, British Burma ...	British Burma ...	{ Rep., VII of 1878; XIX of 1881. }
	XIV	Lunatic Soldiers' property	{ British India, and as regards sub- jects of Her Ma- jesty Dominions of Native Princes in alliance with Her Majesty. }	Rep. in part, XVI of 1874.
	XV	Municipalities, N.-W. Provinces and Oudh. }	{ N. W. Provinces and Oudh. }	Rep. in part, XVI of 1874.
	XVI	Village and Road Police, N. W. Provinces. }	{ N.-W. Provinces }	Rep. in part, XVI of 1874; XII of 1876.
	XVII	Nawab Nazim's Debts ...	{ All persons and places for whom and for which Governor-General in Council has power to make Laws. }	
	XVIII	Rent, N.-W. Provinces ...	N.-W. Provinces ..	Rep., XII of 1881.

Year.	Number.	Subject-matter.	Extent of operation.	How repealed or otherwise determined.
1873	XIX	Land-Revenue, N.-W. Provinces	N.-W. Provinces	Rep. in part, I of 1879 ; VIII of 1879 ; XIII of 1882 ; XV of 1886.
	XX	Prince of Arcot	British India ...	
1874	I	Quieting titles, N.-W. Provinces.	N.-W. Provinces	Spent.
	II	Administrator-General ...	British India, and so far as it affects British subjects, the dominions of Princes in alliance with Her Majesty.	Rep. in part, I of 1879 ; IX of 1881 ;
	III	Married Women's property	British India, and so far as it affects British subjects, the dominions of Princes in alliance with Her Majesty. ...	Rep. in part, XII of 1876 VI of 1888
	IV	Foreign Recruiting ...	British India ...	Rep. in part, XII of 1876.
	V	Appeals to Assistant Commissioner, Kullu.	Kullu Sub-Division, Punjab.	Rep., XVII of 1877.
	VI	Appeals to Judicial Committee	British India ...	Rep., X of 1877.
	VII	Municipalities, British Burma	British Burma ...	Rep., XVII of 1884, <i>quod</i> the local areas to which the New Act is extended.
	VIII	Exercise of Powers in Assam	Assam, Lower Bengal.	
	IX	European Vagrancy ...	British India and dominions of Princes in alliance with Her Majesty.	Rep. in part, I of 1879.
	X	Salt ; Ganjam, Orissa ...	Ganjam Orissa ...	Rep., XVIII of 1877.
	XI	Amending Code of Criminal Procedure	British India ...	Rep., X of 1882.
	XII	Exercise of Powers in Sylhet	Sylhet.	
	XIII	European British Minors	Punjab, Oudh, Central Provinces, British Burma, Coorg, Ajmere, Mairwarra and Assam.	
	XIV	Scheduled Districts ...	British India, except the Scheduled Districts	Rep. in part XIX of 1879 ; XIV of 1881 ; XXV of 1881 ; VII of 1886.

Year.	Number.	Subject-matter.	Extent of operation	How repealed or otherwise determined.
1874	XV	Local Extent of certain Enactments	British India ...	Rep. in part, VIII of 1875; XI of 1875; XII of 1876; XVIII of 1877; VI of 1878; XI of 1878; XIV of 1881; XXVI of 1881; X of 1882; VII of 1885; VIII of 1887; IX of 1887.
	XVI	Obsolete Enactments Repeal	Ditto ...	Rep., XII of 1876.
1875	I	Distresses, Presidency Towns	Presidency Towns.	Rep., XV of 1882.
	II	Law Reports ...	British India ..	Rep., XVIII of 1875.
	III	Correcting Act XVI of 1874	Ditto. ...	Rep., XII of 1876.
	IV	Merchant Shipping ...	Ditto. ...	Rep., V of 1883.
	V	Unattested Sepoys ...	General ...	
	VI	Loan to Sir Jamsetjee Jeejeebhoy ...	Bombay.	
	VII	Fisheries, Burma ...	British Burma ...	Rep. in part, XII of 1876.
	VIII	Inland Customs ...	Sections 1 and 2 to British India, rest of the Act to N.-W Provinces, Punjab, Oudh, and Central Province.	Rep., XII of 1882.
	IX	Majority ...	British India, and, as regards subjects of Her Majesty, Dominions of Princes in alliance with Her Majesty.	
	X	Criminal Procedure, High Courts.	British India	Rep. in part, XII of 1876; X of 1882.
	XI	Salt, Madras ...	Madras ...	Rep., XVIII of 1877.
	XII	Ports and Port-dues ...	British India ...	Rep. in part, XIII of 1878; VII of 1880; IV of 1881; VIII of 1881; XVII of 1882; IV of 1884. Amended, V of 1883; XI of 1885; V of 1883.
	XIII	Probates and Letters of Administration	Ditto ...	
	XIV	Punjab Judicial Administration	Punjab ...	Rep., XVI of 1887.

Year.	Number.	Subject-matter.	Extent of operation.	How repealed or otherwise determined.
1875	XV	Amending Punjab Laws Act	Punjab ...	Rep., XI of 1882.
	XVI	Tariff	British India except Aden, to which only Sections 1 and 12, cl. 3 apply.	
	XVII	Burma Courts	British Burma ...	
	XVIII	Law Reports	British India ...	Rep. in part, VI of 1878 ; XI of 1880 ; X of 1884 ; XIV of 1885.
	XIX	Chief Court, Punjab ...	Punjab	Rep. in part, XII of 1876.
	XX	Law, Central Provinces ...	Central Provinces.	Rep., XVII of 1877.
	XXI	Calcutta University ...	Presidency of Fort William, Bengal.	Rep. in part, VI of 1878 ; III of 1879 ; IV of 1882 ; X of 1882.
				Rep., I of 1884.
1876	I	Telegraphs	British India, and so far as regards subjects of Her Majesty, the dominions of Princes and States in alliance with Her Majesty.	Rep., XIII of 1885.
	II	Burma Land and Revenue	British Burma, except Arakan.	Rep. in part, II of 1880 ; XII of 1882.
	III	Burma Labour Law ...	British India ...	Rep., VII of 1883.
	IV	Bengal Revenue Agents ...	Lower Provinces	Rep., XVIII of 1879.
	V	Reformatory Schools ...	British India ...	
	VI	Chutia Nagpur Encumbered Estates	Chutia Nagpur ...	Amended, V of 1884 ; vide IX of 1886.
	VII	Extending and amending Act XXVII of 1871	Lower Provinces	
	VIII	Native Passenger ships ...	British India ...	Rep., X of 1887.
	IX	Native Coinage	British India ...	
	X	Bombay Revenue Jurisdiction	Bombay	Rep. in part, XV of 1880.
	XI	Presidency Banks	General	Rep. in part, V of 1879.
	XII	Obsolete Enactments ...	British India ...	Spent.
	XIII	Merchant Seamen	British India	
	XIV	Sindh Encumbered Estates	Sindh	Rep., XX of 1881.

Year.	Number.	Subject-matter.	Extent of operation	How repealed or otherwise determined.
1876	XV	Municipal Debentures, } Bombay	Bombay ...	Rep. in part, I of 1879.
	XVI	Amending Stage Carri- } ages Act	British India ...	
	XVII	Land Revenue, Oudh ...	Oudh ...	Rep. in part, XIV of 1878; XIII of 1882.
	XVIII	Oudh Laws ...	Oudh ...	Rep. in part, VI of 1878; XIV of 1878; III of 1879; XIII of 1879; IV of 1882; X of 1882; XXII of 1886.
	XIX	Dramatic Performances ...	British India ...	Modified (Upper Burma), XX of 1886.
	XX	Bhaunagar ...	Ditto	
	XXI	Amending Land Improve- } ment Act ...	Ditto	Rep., XIX of 1883.
	XXII	Public Museum, Calcutta...	Calcutta ...	Rep. in part, IV of 1887.
	XXIII	Opium ...	British India ...	Rep., I of 1878.
1877	I	Specific Relief ...	British India, ex- } cept Scheduled } Districts.	Rep. in part, II of 1882; IV of 1882.
	II	Amending Act XIII of 1875	British India	
	III	Registration ...	Ditto ...	Rep. in part, XII of 1879; XIX of 1883; VII of 1888. Amended, VII of 1886
	IV	Presidency Magistrates ...	Presidency Towns	Rep. in part, X of 1882.
	V	Emigration to Straits ...	Madras ...	Rep., XXI of 1884.
	VI	Postponing Opium Act ...	British India ...	Rep., I of 1878.
	VII	Amending N.-W. P. Local } Rates Act....	N.-W. P. ...	Rep., III of 1878.
	VIII	Licenses, N.-W. P. ...	N.-W. P. ...	Rep., II of 1878.
	IX	Amending Act XXIII of } 1867.	Punjab ...	
	X	Civil Procedure Code ...	SS. 1 and 3 British } India; rest of } Act to British } India, except } the Scheduled } Districts.	Rep., XIV of 1882.
	XI	Military Lunatics ...	British India ...	
	XII	Amending Act VI of 1876	Chutia Nagpur ...	Rep., V of 1884.

Year.	Number.	Subject-matter.	Extent of operation.	How repealed or otherwise determined.
1877	XIII	Embankments, Burma ...	British Burma ...	
	XIV	Broach and Kaira Thakurs...	Broach and Kaira }	Rep. in part, XXI of 1881.
	XV	Limitation ...	British India ... }	Rep. in part, XII of 1879; XVII of 1877, S. 18; VIII of 1880; V of 1881; (locally) IV of 1882; VII of 1888. Amended IX of 1887.
	XVI	Amending Bombay Revenue Jurisdiction Act. }	Bombay.	
	XVII	Punjab Courts ...	Punjab .. }	Rep. in part, XVIII of 1879; (Ex. S. 18) XVIII of 1884.
	XVIII	Salt ...	General ...	Rep., XII of 1882.
	XIX	Ministerial Officers ... }	Lower Provinces and Bombay. }	Rep. in part, XII of 1887.
	I	Opium ...	Such local area as Governor-General in Council, may direct.	
	II	License Act, Northern India.	Punjab, N.-W. P. and Oudh. }	Rep., II of 1886.
1878	III	Local Rates, N.-W. P. ...	N.-W. P. ... }	Rep. in part, VIII of 1879; XIV of 1883.
	IV	Local Rates, Oudh...	Oudh ...	Rep. in part, XIV of 1883.
	V	Local Rates, Punjab ...	Punjab .. }	Rep., XX of 1883, in any district in which the later Act comes into force.
	VI	Treasure-trove ...	British India.	
	VII	Forests ...	Bombay, Lower Prov., N.-W. P., Punjab (except Hazara), Oudh, Central Prov., Assam }	Rep. in part, (locally) VI of 1879.
	VIII	Sea-Customs ...	British India ... }	Rep. in part, IX of 1885; II of 1887; IV of 1889.
	IX	Native Press ...	SS. 1, 11-16 (incl.) British India; rest of Act as notified by G. G. in C. }	Rep., III of 1882.
	X	Local Rates, Central Provinces	Central Provinces.	
	XI	Arms... ..	British India ...	Rep. in part, XI of 1882.
	XII	Amending Punjab Laws Act	Punjab ...	
	XIII	Distressed Seamen ...	General ...	Rep., V of 1883.

Year.	Number.	Subject-matter.	Extent of operation.	How repealed or otherwise determined.
1878	XIV	Assimilation of Powers, N. W. Provinces and Oudh. }	N. W. Provinces { and Oudh. }	Rep. in part, XIII of 1879; X XII of 1886.
	XV	Huskinabad Endowment ...	Lucknow... ..	
	XVI	Amending Act IX of 1878...	General	Rep., III of 1882.
	XVII	Ferries Northern India... }	Punjab, N. W. Provinces, Oudh Central Provinces, Assam, Ajmere and Merwara. }	Amended (locally) I of 1883. XIV of 1883; XX of 1883; III of 1886.
	XVIII	Amending Act X of 1877, S. 4	British India ...	Rep., XII of 1879.
1879	I	Stamps	British India }	Rep., in part, IX of 1884; I of 1888; V of 1888; Modified, XVII of 1888.
	II	Central Provinces, Evidence	Central Provinces,	
	III	Destruction of Records ...	British India ...	Modified, XVIII of 1888.
	IV	Railways	{ British India, and so far as it affects British subjects, Native states in alliance with Her Majesty. }	Rep. in part, IV of 1883; vide XI of 1886.
	V	Amending Act XI of 1876	General	
	VI	Preservation of Elephants }	N.-W. Provinces, Oudh, Central Provinces, British Burma and Coorg. }	Rep. in part, II of 1883.
	VII	Punjab Additional Financial Commissioner ... }	Punjab	Spent.
	VIII	N.-W. P. Land revenue ...	N.-W. P.... ..	Rep. in part, XIII of 1882.
	IX	Coast lights	{ Madras, Bombay, British Burma, Bengal, Andaman and Nicobar Islands. }	
	X	Recovery of Advances to Landholders }	N.-W. P., Punjab, Oudh, Central Provinces, Assam, and Ajmere. }	Rep., XII of 1884.
	XI	Local Authorities' Loan ...	British India ...	Amended, XV of 1885.
	XII	Amending Code of Civil Procedure	Ditto	Rep. in part, XIV of 18
	XIII	Oudh Civil Courts... ..	Oudh	

Year.	Number.	Subject-matter.	Extent of operation.	How repealed or otherwise determined.
1879	XIV	Hackney Carriages ...	N.-W. P., Punjab, Oudh, Central Provinces, British Burma, Assam, Ajmer, Coorg, as soon as notified.	
	XV	Rangoon Port Commissioners	Rangoon ...	
	XVI	Transport of Salt by Sea	W. Coast of British India N. of Cochin and Sea within a marine league from such Coast.	
	XVII	Dekkan Raiyat's Relief	SS. 11, 56, 60, 62, British India: rest of Act, Puna, Satara, Sholapur, and Ahmednagar.	Rep. in part, XXI of 1881 ; XXII of 1882 ; XXIII of 1886.
	XVIII	Legal Practitioners ...	SS. 1, 2, British India: rest of Act, in first instance, Lower Bengal, N.-W. P., Punjab, Oudh, Central Provinces, and Assam.	Rep. in part, IX of 1884.
	XIX	Raipur and Khattrra ...	Thanas Raipur and Khattrra.	
	XX	Glanders and Farcy ...	British India, except * Fort St. George, Bombay and Lower Bengal.	
	XXI	Foreign Jurisdiction and Extradition	British India ...	Rep. in part, X of 1882.
	I	Religious societies... ..	Ditto ...	
	II	Burma District Cesses and Police	British Burma ...	Rep. in part, III of 1889.
1880	III	Cantonments	British India, except Fort St. George and Bombay.	Rep. in part, VIII of 1887.
	IV	Portuguese Convention ...	General	
	V	Burma Boundaries... ..	British Burma ...	
	VI	Amending License Acts ...	General	Rep., II of 1886.
	VII	Merchant shipping ...	General	Rep. in part, XIV of 1882.

* Extended to Bombay Presidency, XXIV of 1886.

Year.	Number.	Subject-matter.	Extent of operation.	How repealed or otherwise determined.
1880	VIII	Clerical Error in Limitation Act, 1877.	General ...	Rep., X of 1888.
	IX	Amending Bombay Civil Courts Act, 1869 ...	Bombay ...	
	X	Lands annexed to the Multan District	Multan District ...	Rep., XIII of 1883.
	XI	Burma Courts ...	British Burma ...	
	XII	Kazis... ..	Fort St. George and as extended.	
	XIII	Vaccination	Such parts of N.-W. P., Punjab, Oudh, Central Provinces, British Burma, Assam, Ajmer, Coorg, as extended.	
	XIV	Census	S. 2, 3, 4, British India: rest of Act as notified Local Govt.	Spent.
	XV	Amending Bombay Revenue Jurisdiction Act, 1876	Bombay ...	Rep. in part, XII of 1884.
	XVI	Madras Irrigation Company's Canal	Madras ...	
1881	I	Taj Mahal's Pension ...	General ...	
	II	Pegu and Sittang Canal ...	Pegu and Sittang Rivers.	
	III	Indian Securities	General ...	Rep., XIII of 1886.
	IV	Madras Port-dues	Madras ...	
	V	Probate and Administration	British India ...	
	VI	District Delegates	Do. ...	
	VII	Amending Bengal Cess Act, 1880	Lower Bengal ...	
	VIII	Petroleum	British India ...	Rep., XII of 1886.
	IX	Amending Administrator-General's Act, 1874	British India ...	
	X	Amending Coroners Act, 1871,	General ...	Rep. in part, X of 1882; V of 1889.
	XI	Municipal Taxation ...	British India ...	
	XII	Rent, N.-W. P.	N.-W. P. except Provinces mentioned in Sch. II	Rep. in part, XIV of 1886; VI of 1888.

Year.	Number.	Subject-matter.	Extent of operation.	How repealed or otherwise determined.
1881	XIII	Better Government of Fort William.	Fort William ...	Rep. in part, IX of 1897.
	XIV	Benares Family Domains ...	General ...	
	XV	Indian Factories ...	British India ...	
	XVI	Obstructions in Fairways ...	General ...	
	XVII	Portuguese Convention ...	British India ...	
	XVIII	Land-Revenue, Central Provinces. ...	Central Provinces,	
	XIX	Burma Forests ...	British Burma ...	
	XX	Sindh Incumbered Estates...	Sindh ...	Rep. in part, XI of 1884.
	XXI	Broach and Kaira Incumbered Estates.	Broach and Kaira,	
	XXII	Excise ...	N.-W. P., Punjab, Oudh, Central Prov., British Burma, Coorg, Ajmere & Merwara ...	Rep. in part, II of 1897. Amended, VI of 1885; IX of 1885; XVIII of 1888.
	XXIII	Dekhan Agriculturists relief ...	Vide Act XVII of 1879 ...	Amended, XXIII of 1886.
	XXIV	Punjab Laws' Amendment	Punjab ...	
	XXV	Banki Laws...	Banki Mahal ...	
	XXVI	Negotiable Instruments ...	British India ...	Amended, II of 1885.
1882	I	Inland Emigration ...	Lower Bengal, N.-W. P., Oudh, Assam ...	
	II	Trusts ...	Madras, N.-W. P., Punjab, Oudh, Central Prov., Coorg, Assam ...	
	III	Seditious Publications ...	British India ...	
	IV	Transfer of Property ...	British India, exc. Bombay, Punjab, & British Burma, otherwise as notified	Amended, III of 1885.
	V	Easements ...	Madras, Central Provinces, Coorg.	
	VI	Companies ...	British India ...	Amended, VI of 1887.
	VII	Powers of Attorney ...	Ditto ...	

Year.	Number.	Subject-matter.	Extent of operation.	How repealed or otherwise determined.
1882	VIII	Amending Penal Code ...	British India ...	
	IX	Prisoners' Act Amendment	Ditto	
	X	Criminal Procedure ...	Ditto ...	Rep., in part, III of 1884; X of 1886; V of 1887; III of 1889; V of 1889; Amended, XIV of 1887; I of 1889.
	XI	Tariff	British India, except Aden	Rep. in part, IX of 1885; II of 1887; II of 1888.
	XII	Salt	SS. 1, 2, 7, 8 and so much as refers to offences under the Act to British India: the rest to N.-W. P., Punjab, Oudh, Central Prov., and Ajmere and Marwara, Sindh, Patna, and British territory under Gov. Genl's Agent in Central India ...	Rep. in part, XX of 1884.
	XIII	Kanungos and Patwaris ...	N.-W. P. and Oudh	Modified (locally) XVIII of 1884
	XIV	The Code of Civil Procedure.	SS. 1, 3, British India: rest to British India except the Scheduled Districts.	Rep. in part, XIV of 1885. IV of 1886; VIII of 1887; IX of 1887; VI of 1888; VII of 1888; X of 1888.
	XV	Presidency Small Cause Courts.	Presidency Towns	Rep. in part X of 1888.
	XVI	Jhansi Encumbered Estates	Jhansi, N. W. P. ...	
	XVII	Amending India Ports Act, 1875	British India ...	
	XVIII	Burma Steam Boilers and Prime Movers	Rangoon, Maulmain, Akyab, and Bassain ...	Amended, I of 1885.
	XIX	Punjab University ...	General ...	
	XX	Paper Currency	British India ...	
	XXI	To remove doubts regarding the Madras Forest Act, 1882.	General ...	
	XXII	Amending the Dekkhan agriculturists' Relief Act, 1879	Vide Act XVII of 1879	Amended, XXIII of 1886.

Year.	Number.	Subject-matter.	Extent of operation.	How repealed or otherwise determined.
1883	I	Central Provinces Local Self-Government ... }	Central Provinces	
	II	Amending Elephants Preservation Act 1879 ... }	Vide Act VI of 1879	
	III	Repealing Act XXVII of 1854 ... }	General ...	
	IV	Amending the Indian Railway Act, 1879. ... }	Vide Act IV of 1879	
	V	Merchant Shipping ...	British India ...	
	VI	Amending Act XII of 1859 }	Presidency of Fort William, Bengal.	
	VII	Repealing the British Burma Labour Law, 1876. }	General ...	
	VIII	Little Cocos and Preparis Islands Laws. }	Little Cocos and Preparis Islands.	
	IX	Central Provinces Tenancy	Central Provinces	
	X	Bikrama Singh's Estates ...	General ...	
	XI	Amending Ports' Act, 1875	Do. ...	
	XII	British Burma Pilots ..	British Burma ...	
	XIII	Laws in force in lands ceded by Bhawalpur State. }	General ...	
	XIV	N. W.-P. and Oudh Local Boards ...	N. W. P. and Oudh	
	XV	N. W.-P. and Oudh Municipalities... }	N. W. P. and Oudh	
	XVI	Protection of Inventions ...	General ...	Rep., V of 1888.
	XVII	Native Passenger Ships ...	British India ...	Rep., X of 1887.
	XVIII	Amending Cattle Trespass Act, 1871. }	See Act I of 1871...	
	XIX	Land Improvement Loans...	British India ...	
	XX	Punjab District Boards ...	Punjab ...	
	XXI	Indian Emigration ...	British India ...	Rep. in part, XXI of 1884.
	XXII	Rangoon Tramways ...	Rangoon ...	
1884	I	Granting of Honorary Degrees ... }	General ...	
	II	Unregistered instruments of Partition ... }	Madras ...	
	III	Amending Criminal Procedure Court ... }	British India ...	
	IV	Indian explosives ...	British India ...	

Year.	No.	Subject-matter.	Extent of operation.	How repealed or otherwise determined.
1884	V	Chutia Nagpur Encumbered Estates. ... }	Chutia Nagpur ...	Rep. in part, X of 1887.
	VI	Inland Steam Vessels ... }	British India, except Fort St. George.	
	VII	Indian Steam Ships ...	British India ...	
	VIII	Repealing Regulation XIX of 1810. }	N.-W.-P. ...	
	IX	Amending Legal Practitioners and Stamp Acts. }	General ...	
	X	Burma Courts ...	British Burma ...	
	XI	Amending Sindh Encumbered Estates Act, 1881. }	Sindh ...	
	XII	Agriculturists' Loans ... }	Sections 2, 3 British India : rest of Act Bombay N.-W.-P. Punjab, Oudh, Central Provinces, Assam and Ajmere.	
	XIII	Punjab Municipalities ...	Punjab ...	
	XIV	Validation of decisions of Settlement Officers. }	Do. ...	
	XV	Validation of certain Marriage Licenses. }	General ...	
	XVI	Burma Gaming ...	British Burma ...	Rep. in part, XIX of 1888; Corrected, XI of 1885.
	XVII	Burma Municipal ...	Ditto ...	
	XVIII	Punjab Courts ...	Punjab ...	
	XIX	Rangoon Water-works ...	Rangoon ...	
	XX	Amending Indian Salt Act, 1882. ... }	General ...	
	XXI	Repealing Straits Settlement Emigration Act, 1879, and amending Indian Emigration Act, 1883. }	Do. ...	Rep. in part, VII of 1887; XVI of 1887; XVII of 1887; XIII of 1888.
1885	I	Amending Burma Steam Boilers and Prime Movers Act, 1882. }	British Burma ...	
	II	Amending Negotiable Instruments Act, 1881. ... }	British India ...	

Year.	No.	Subject-matter.	Extent of operation.	How repealed or otherwise determined.
1885	III	Amending Transfer of Property Act, 1882.	<i>Vide</i> Act IV of 1882.	
	IV	Oudh Additional Judicial Commissioner.	Oudh ...	
	V	Amending Indian Ports Act, 1875	British India ...	
	VI	Amending Excise Act, 1881	<i>Vide</i> Act XXII of 1881.	
	VII	Panch Mahals Law	General ...	
	VIII	Bengal Tenancy	Bengal, exc Calcutta, Orissa, and the Scheduled Districts	See XX of 1885 ; Amended, V III of 1886.
	IX	Repealing part of S. 6 of the Indian Tariff Act, 1882, and amending the Excise Act, 1881, the Bengal Excise Act, 1878, and the Sea Customs Act, 1878.	General ...	
	X	Amending the Oudh Estates Act, 1869.	Do. ...	
	XI	Correcting Burma Municipal Act, 1884.	Burma ...	Rep., XIX of 1888.
	XII	Indian Sea Passengers	General ...	
	XIII	Indian Telegraphs	British India ...	Added to, XI of 1888.
	XIV	Burma Courts	General ...	
	XV	Amending the Local Authorities Loan Act, 1879	Do. ...	
	XVI	Central Provinces, Civil Courts.	Central Provinces.	
	XVII	Central Provinces Government Wards.	Ditto ...	
	XVIII	Land Acquisition (Mines)	Madras, Bengal and as extended	
	XIX	Indian Securities	General ...	Rep., XIII of 1886.
	XX	Postponing certain provisions of Beng. Tenancy Act, 1885.	Do. ...	
	XXI	Madras Civil Courts	Madras ...	
1886	I	Lahore Tramways	General ...	
	II	Income Tax	British India ...	
	II	Amending N. India Ferries Act, 1878.	<i>Vide</i> XVII of 1878.	

Year.	Number	Subject-matter.	Extent of operation	How repealed or otherwise determined.
1886	IV	Amending Indian Contract Act, 1872. ...	British India ...	Spent.
	V	Mirzapur Stone Mahal ...	General ...	
	VI	Births, Deaths & Marriages Registration.	British India and British subjects, in Native States.	
	VII	Amending Indian Registration Act, 1877	General ...	
	VIII	Amending Bengal Tenancy Act, 1885, SS. 12, 13.	Vide Act VIII of 1889.	
	IX	Deo Estate ...	General ...	
	X	Amending Criminal Procedure Code, &c.	Do. ...	
	XI	Indian Tramways ...	British India, except Fort St. George, Bombay and Punjab.	
	XII	Petroleum ...	Part to British India: rest as extended.	
	XIII	Indian Securities ...	General ...	
	XIV	Amending N. W.-P. Rent Act, 1881.	Vide Act XII of 1881.	
	XV	Amending N. W.-P., Land Rev. Act, 1873.	Vide Act XIX of 1873.	
	XVI	Lower Burma Gaols Delivery.	Districts of Lower Burma as notified in Official Gazette.	
	XVII	Jhansi and Morar ..	General ...	
	XVIII	Amending Act XXXVI of 1858.	Do. ...	
	XIX	Legalizing discharge by L. G. of N. W.-P. of certain functions of G. G. in C.	Do. ...	
	XX	Upper Burma Laws ...	Do. ...	
	XXI	Oudh Wasikas ...	Do. ...	
	XXII	Oudh Rent ...	Oudh ...	
	XXIII	Dekkhan Agriculturist Relief.	Vide Act XVII of 1879.	
	XXIV	Extending Glanders & Farcy Act, 1879, to Bombay.	General ...	Amended XVIII of 1888.

Year.	Number.	Subject-matter.	Extent of operation.	How repealed or otherwise determined
1887	I	General Clauses	General	
	II	Amending Sea Customs Act, 1878, Excise Act, 1881, and Indian Tariff Act, 1882. }	Ditto	
	III	Amending Indian Evidence Act, 1872	Ditto	
	IV	Indian Museum	Ditto	
	V	Amending the Code of Criminal Procedure, 1882 }	Ditto	
	VI	Amending Indian Companies Act, 1882. ... }	Ditto	
	VII	Suits Valuation	British India	
	VIII	Abolishing Military Courts of Requests	General	
	IX	Provincial Small Cause Courts. }	British India	Rep. in part, X of 1888.
	X	Native Passenger Ships	Ditto	
	XI	Sindh-Pishin Railway	General	
	XII	Bengal, N. W. P., and Assam Civil Courts. }	Bengal, N. W. P. and Assam, except territories not subject to the ordinary Civil Jurisdiction of the High Court, and Jhansi. }	
	XIII	Electricity	British India	
	XIV	Indian Marine	General }	Rep. in part, XVII of 1888.
	XV	Military Police in Burma }	Barma, exc. the Shan States. }	
	XVI	Punjab Tenancy	Punjab (including Spiti) exc. Hazara District. }	
	XVII	Punjab Land Revenue ... }	Punjab (including Spiti). }	
	XVIII	Allahabad University	General	
	XIX	Administration of estate of the late King of Oudh ... }	Ditto	
	XX	Wild Birds Protection	British India	
	XXI	Inland Bonded warehouses,	General	

Year.	Number.	Subject-matter.	Extent of operation.	How repealed or otherwise determined.
1888	I	Amending the Indian Stamp Act, 1879 ... }	General ...	
	II	Petroleum ...	Ditto ...	
	III	Police ...	British India ...	
	IV	Indian Reserve Forces ...	General ...	
	V	Inventions and Designs ...	British India ...	
	VI	Imprisonment for Debt... }	Same as the enactments to which the several portions relate.	
	VII	Civil Procedure Code amendment ... }		
	VIII	To remove doubts as to the legality of certain Tolls }	Ditto ...	
	IX	To repeal certain enactments relating to contagious diseases ... }	Ditto ...	
	X	Amending the Code of Civil Procedure and the Presidency Small Cause Courts Act ... }	Ditto ...	
	XI	Addition to the Indian Telegraph Act, 1885 ... }	Ditto ...	
	XII	Supplementing the Bombay Municipal Act, 1888, and the Calcutta Municipal Consolidation Act, 1889. }	General ...	
	XIII	Punjab Courts ...	Punjab ...	
	XIV	Administration of the estate of the late King of Oudh, }	General ...	
	XV	Shan States...	Shan States ...	
	XVI	Repealing Acts relating to purchase of regimental necessaries from soldiers. }	General ...	
	XVII	Amending Indian Marine Act, 1888 ... }	Ditto ...	
	XVIII	Appointment of Financial Commissioner for Burma. }	Burma, exc. the Shan States.	
	XIX	Amending Burma Municipal Act, 1884. }	Vide Act XVII of 1884.	

THE
BENGAL REGULATIONS.

NOTE.—The following Bengal Regulations are declared to be in force in the Punjab by Act IV of 1872, Schedule I.

SCHEDULE I:

Enactments declared to be in force.

Number and year.	Title.	Extent to which the enactment is in force.
Reg. I of 1798 ...	A Regulation to prevent Fraud and Injustice in Conditional Sales of Land under Deeds of Bye-bil-wuffa, or other Deeds of the same nature.	The whole, except such parts as relate to interest.
Reg. X of 1804 ...	A Regulation for declaring the Powers of the Governor-General in Council to provide for the immediate punishment of certain Offences against the State by the sentence of Courts Martial.	The whole, so far as it is not modified by Act V of 1841.
Reg. XVII of 1806 ...	A Regulation for extending to the Province of Benares the Rates of Interest on future Loans, and Provisions relative thereto, contained in Regulation XV, 1793; also for a general extension of the period fixed by Regulations I, 1798, and XXXIV, 1803, for the redemption of Mortgages and Conditional Sales of Land, under Deeds of Bye-bil-wuffa, Kut-cubaleh, or other similar designation.	Sections seven and eight.
Reg. V of 1817 .	A Regulation for declaring the Rights of Government and of Individuals with respect to hidden Treasure, and for prescribing the Rules to be observed on the Discovery of such Treasure.	The whole.
Reg. III of 1818	A Regulation for the confinement of State Prisoners.	The whole.
Reg. XI of 1825	A Regulation for declaring the Rules to be observed in determining Claims to Lands gained by alluvion, or by dereliction of a river or the sea.	The whole.
† Reg. XX of 1825	A Regulation for declaring the jurisdiction of the Military Courts Martial and Courts of Request, constituted by a recent Act of Parliament, and for modifying some parts of the existing Regulations in conformity thereto.	Sections two and four.

* Repealed by Act VI of 1878.

† Repealed by Act X of 1882.

NOTE.—Regulations I of 1798, and XVII of 1806 have been repealed by Act IV of 1882 (*The Transfer of Property Act*) in the territories to which that Act extends.

REGULATIONS IN FORCE IN THE PUNJAB.

REGULATION I of 1798.

A REGULATION to prevent Fraud and Injustice in Conditional Sales of Land under Deeds of Bye-bil-wuffa, or other Deeds of the same Nature,

(Passed on the 9th January 1798).

1. It has been long a prevalent practice in the province of Behar to

Preamble.

borrow money on the mortgage and conditional sale of landed property, under a stipulation that, if the sum borrowed be not repaid (with or without interest) by a fixed period, the sale shall become absolute. This species of transfer has, in the above province, been usually denominated bye-bil-wuffa; and the same transaction is common in Bengal, under an instrument termed kut-cubaleh. It doubtless exists, also, under deeds of the above or similar denominations, in Orissa and Benares: and since the promulgation of the rules respecting interest contained in Regulation XV, 1793, it has become more prevalent; particularly in the province of Behar, wherein instances have occurred in which persons lending money on bye-bil-wuffa, in order to render the sale absolute, and thereby possess themselves of the landed property of the borrower, have denied the tender or evaded receiving payment of the money due to them within the period limited for the discharge of it. In such cases, the proof of the tender falls on the borrower; and if he fail in the proof of it for want of legal evidence, he is liable to lose his estate. It is necessary, therefore, for the security of the borrower, in such transactions, that he should have the means of establishing before a Court of Judicature his having tendered, or being ready to pay, within the stipulated period, the amount due from him to the lender; who, if he mean to act fairly, will also derive a benefit from a clear rule being laid down, whereby it may be readily ascertained whether the borrower was willing to redeem his property by the payment of the money lent upon it within the period agreed upon between the parties, or whether, from his having omitted to perform the conditions of such redemption, the sale is become absolute and the property included therein finally transferred to the lender. For the above purpose, and for the prevention of other abuses in the transactions referred to, the Governor-General in Council has passed the following rules, to be considered in force in the provinces of Bengal, Behar, Orissa and Benares, from the date of the receipt of this Regulation by the several Courts respectively.

2. In all instances of the loan of money on bye-bil-wuffa, or on the

Persons who have borrowed money on a conditional sale of land, and who may be desirous of redeeming the land by payment of the money lent upon it, how to proceed for this purpose.

conditional sale of landed property, as explained in the preamble to this Regulation, however denominated, the borrower, who may be desirous to redeem his land by the payment of the money lent upon it, with any interest due thereon, within the stipulated period, is at liberty, on or before the date stipulated, either to tender and pay to the lender

May, within the stipulated period, either tender and pay the amount due to the lender, or deposit the same in the local Dewanny Adawlut.

Receipt to be given by the Judge for such deposit.

Notice to be given to the lender, and payment to be made to him, under restrictions.

of such deposit to be delivered to the lender; and on the application of the latter, and his surrender of the conditional bill of sale, or showing satisfactory cause why it cannot be surrendered, shall pay him the amount deposited, and take his acknowledgment, to remain among the records of the Court. That there may be no doubt to what amount the deposit in question is to be made, it is required to be as follows. When the lender has not obtained possession of the lands, the deposit is to be the principal sum lent, with the stipulated interest thereon, not exceeding the legal rate of twelve per cent. per annum; or if interest be payable and no rate has been stipulated, with interest at the established rate of twelve per cent.; but if the lender has held possession of the land, the principal sum borrowed only need be deposited, leaving the interest to be settled on an adjustment of the lender's receipts and disbursements during the period he has been in possession. In either case, a deposit, made as above required, shall

be considered to preserve to the borrower his full right of redemption; and if the land be in the possession of the lender, shall entitle him to demand the immediate recovery thereof, subject to the adjustment of accounts specified in the following section. Provided,

however, that if the borrower in any case shall deposit a less sum than above required, alleging that the sum so deposited is the total amount due to the lender for principal and interest, after deducting the proceeds of the lands in his possession, or otherwise, such deposit shall be received, and notice given to the lender as above directed; and if the amount so deposited be admitted by the lender, or be established, on investigation, to be the total amount due to him, the right of redemption shall be considered to have been fully preserved to the borrower, who will not, however, in such cases, be entitled to the recovery of his lands, until it be admitted or established that he has paid the full amount due from him.

Specification of the deposit required. Rights of the borrower preserved by making the required deposit.

Provido, with respect to deposits less than above required, if alleged to be the total amount due.

Such deposits to be also received; and to preserve the borrower's rights, if admitted or established to be the total amount due.

3. In all instances wherein the lender on a bye-bil-wuffa, or similar

conditional sale, may have been put in possession of the land, and an adjustment of accounts may consequently become necessary between him and the borrower, the lender is to account to the borrower for the proceeds of the estate whilst in his possession, on the principles prescribed with regard to mortgages and interest in Regulation XV, 1793, as far as the same may be applicable to the nature of the case. But such part of Section X of the above Regulation as directs that the mortgages therein referred to are to be considered as cancelled and redeemed

When the lender has possessed the land, and an adjustment of accounts is necessary, he is to account for the proceeds of the estate.

the principles prescribed with regard to mortgages and interest in Regulation XV, 1793, as far as the same may be applicable to the nature of the case. But such part of Section X of the above Regulation as directs that the mortgages therein referred to are to be considered as cancelled and redeemed

ed, whenever the principal sum, with the simple interest due upon it, shall have been realized from the the usufruct of the mortgaged property, or otherwise liquidated by the mortgagee, being inapplicable to the conditional sale referred to in this Regulation, it is hereby declared not to apply thereto.

4. A teep for the repayment of money lent on the conditional sales referred to in this Regulation shall not be considered a legal tender, unless accepted as such by the lender; the proof of which acceptance shall be the lender's giving up the bill of sale, or giving a written acknowledgment that he has received back the money lent by him.

5. Nothing in this Regulation being intended to alter the terms of contract settled between the parties in the transactions to which it refers (illegal interest excepted), the several provisions in it are to be construed accordingly; and any question of right between the parties is to be regularly brought before and determined by the Courts of Civil Justice.

NOTE.—The whole of the above Regulation, except such parts as relate to interest, is declared to be in force.

See also Sections 7 and 8 of Regulation XVII of 1806.

REGULATION X of 1804.

A REGULATION for declaring the Powers of the Governor-General in Council to provide for the immediate Punishment of certain Offences against the State by the Sentence of Courts Martial.

(Passed on the 14th December 1804).

1. WHEREAS, during wars in which the British Government has been engaged against certain of the native powers of India, certain persons owing allegiance to the British Government have borne arms in open hostility to the authority of the same, and have abetted and aided the enemy, and have committed acts of violence and outrage against the lives and properties of the subjects of the said Government; and whereas it may be expedient that, during the existence of any war in which the British Government in India may be engaged with any power whatever, as well as during the existence of open rebellion against the authority of the Government, in any part of the British territories subject to the Government of the presidency of Fort William, the Governor-General in Council should declare and establish martial law within any part of the territories aforesaid, for the safety of the British possessions and for the security of the lives and property of the inhabitants thereof, by the immediate punishment of persons owing allegiance to the British Government who may be taken in arms, in open hostility to the said Government, or in the actual commission of any overt act of rebellion against the authority of the same, or in the act of openly aiding and abetting the enemies of the British Government within any part of the territories above specified: the following Regulation has been enacted by the Governor-General in Council, to be in force throughout the British territories immediately subject to the Government of the presidency of Fort William, from the date of its promulgation.

2. The Governor-General in Council is hereby declared to be empowered

Suspension of functions of ordinary Criminal Courts in any district, &c., and establishment of martial law therein.

to suspend, or to direct any public authority or officer to order the suspension of, wholly or partially, the functions of the ordinary Criminal Courts of Judicature, within any zillah, district, city, or other place, within any part of the British territories subject to the Government of the presidency of Fort William, and to establish martial law therein, for any period of time while the British Government in India shall be engaged in war with any native or other power, as well as during the existence of open rebellion against the authority of the Government, in any part of the territories aforesaid; and also to direct the immediate trial, by Courts martial, of all persons owing allegiance to the British Government, either in consequence of their having been born, or of their being residents within its territories and under its protection, who shall be taken in arms in open hostility to the British Government, or in the act of opposing by force of arms the authority of the same, or in the actual commission of any overt act of rebellion against the State, or in the act of openly aiding and abetting the enemies of the British Government within any part of the said territories.

3. It is hereby further declared that any person born or residing under

Punishment for rebellion, &c.

the protection of the British Government within the territories aforesaid, and consequently owing allegiance to the said Government, who, in violation of the obligations of such allegiance, shall be guilty of any of the crimes specified in the preceding section, and who shall be convicted thereof by the sentence of a Court martial, during the suspension of the functions of the ordinary Criminal Courts of Judicature and the establishment of the martial law, shall be liable to the immediate punishment of death, and shall suffer the same accordingly, by being hung by the neck till he is dead. All persons who shall, in such cases, be adjudged by a Court martial to be guilty of any of the crimes specified in this Regulation, shall also forfeit to the British Government all property and effects, real and personal, which they shall have possessed within its territories, at the time when the crime of which they may be convicted shall have been committed.

4. The Governor-General in Council shall not be precluded by this

Governor-General in Council may cause such offenders to be tried before ordinary Courts of Justice, &c.

Regulation from causing persons charged with any of the offences described in the present Regulation to be brought to trial, at any time, before the ordinary Courts of Judicature, instead of causing such persons to be tried by Courts martial, in any cases wherein the latter mode of trial shall not appear to be indispensably necessary.

NOTES.—(a). Section 4 is amended by Act XVI of 1874.

(b). The whole of the above Regulation, so far as it is not modified by Act V of 1841, is declared to be in force. Act V of 1841 was enacted "for the greater uniformity of the process upon trials for State offences, and the amendment of such process in certain cases." It declared that the ordinary tribunals were competent to try charges of treason, rebellion or other crime against the State; and also authorized the Government to issue a commission for the trial of any such offences. The Courts convened under such commissions were to try prisoners in the ordinary manner, but their sentences were to be reported before execution to the highest Court of the Presidency for criminal matters. Act V of 1841 was repealed by Act X of 1872 (*The Code of Criminal Procedure*).

REGULATION XVII of 1806.

A REGULATION for extending to the Provinces of Benares the Rates of Interest on future Loans, and provisions relative thereto contained in Regulation XV, 1793 ; also for a general extension of the Period fixed by Regulations I, 1798, and XXXIV, 1803, for the Redemption of Mortgages and Conditional Sales of Land, under deeds of Bye-bil-wuffa, Kut-cubaleh, or other similar designation.

(Passed on the 11th September 1806).

* * * * *

7. In addition to the provisions made in the provinces of Bengal, Behar, Orissa and Benares, by Regulation I, 1798, and in the ceded and conquered provinces by Regulation XXXIV, 1803, for the redemption of mortgages and conditional sales of land, under deeds of bye-bil-wuffa, kut-cubaleh, or any similar designation, it is hereby provided, that when the mortgagee may have obtained possession of the land, on execution of the mortgage-deed or at any time before a final foreclosure of the mortgage, the payment or established tender of the sum lent under any such deed of mortgage and conditional sale, or of the balance due, if any part of the principal amount shall have been discharged, or when the mortgagee may not have been put in possession of the mortgaged property, the payment or established tender of the principal sum lent, with any interest due thereupon, shall entitle the mortgagor and owner of such property, or his legal representative, to the redemption of his property, before the mortgage is finally foreclosed in the manner provided for by the following section ; that is to say, at any time within one year (Bengal, Fussily, or Willaity, according to the era current where the mortgage may take place) from and after the application of the mortgagee to the zillah or city Court of Dewanny Adawlut for foreclosing the mortgage and rendering the sale conclusive, in conformity with Section VIII of this Regulation. Provided that such payment or tender be clearly proved to have been made to the lender and mortgagee or his legal representative ; or that the amount due be deposited, within the time above specified, in the Dewanny Adawlut of the zillah or city in which the mortgaged property may be situated, as allowed for the security of the borrower and mortgagor, in such cases, by Section II, Regulation I, 1798, and Section XII, Regulation XXXIV, 1803, the whole of the provisions contained in which sections, as applied therein to the stipulated period of redemption, are declared to be equally applicable to the extended period of one year, granted for an equitable right of redemption by this Regulation.

8. Whenever the receiver or holder of a deed of mortgage and conditional sale, such as is described in the preamble and preceding sections of this Regulation, may be desirous of foreclosing the mortgage and rendering the sale conclusive on the expiration of the stipulated period, or at any time subsequent before the sum lent is repaid, he shall (after demanding payment from the borrower or his representative) apply for that purpose by a written petition, to be presented by himself, or by one of the authorized vakeels of the Court, to the Judge of the zillah or city in which the mortgaged land or other property may be situated. The Judge, on receiving such written application, shall cause the mortgagor or his legal representative

to be furnished, as soon as possible, with a copy of it; and shall at the same time notify to him, by a perwannah under his seal and official signature, that if he shall not redeem the property mortgaged in the manner provided for by the foregoing section, within one year from the date of the notification, the mortgage will be finally foreclosed and the conditional sale will become conclusive.

NOTES.—(a). The above two sections only are declared to be in force.

(b). As regards the procedure, and the jurisdiction of the Courts in suits for foreclosure, see Judicial Circular No. VIII.

REGULATION III of 1818.

A REGULATION for the Confinement of State Prisoners.

(Passed on the 7th April 1818).

1. WHEREAS reasons of state, embracing the due maintenance of the alliances formed by the British Government with foreign powers, the preservation of tranquility in the territories of native princes entitled to its protection, and the security of the British dominions from foreign hostility and from internal commotion, occasionally render it necessary to place under personal restraint individuals against whom there may not be sufficient ground to institute any judicial proceeding, or when such proceeding may not be adapted to the nature of the case, or may for other reasons be unadvisable or improper; and whereas it is fit that, in every case of the nature herein referred to, the determination to be taken should proceed immediately from the authority of the Governor-General in Council; and whereas the ends of justice require that, when it may be determined that any person shall be placed under personal restraint, otherwise than in pursuance of some judicial proceeding, the grounds of such determination should from time to time come under revision, and the person affected thereby should at all times be allowed freely to bring to the notice of the Governor-General in Council all circumstances relating either to the supposed grounds of such determination, or to the manner in which it may be executed; and whereas the ends of justice also require that due attention be paid to the health of every state prisoner confined under this Regulation, and that suitable provision be made for his support according to his rank in life, and to his own wants and those of his family; and whereas the reasons above declared sometimes render it necessary that the estates and lands of zemindars, talookdars and others situated within the territories dependent on the presidency of Fort William, should be attached and placed under the temporary management of the revenue authorities, without having recourse to any judicial proceeding; and whereas it is desirable to make such legal provisions as may secure from injury the just rights and interests of individuals whose estates may be so attached under the direct authority of Government; the Vice-President in Council has enacted the following rules, which are to take effect throughout the provinces immediately subject to the presidency of Fort William, from the date on which they may be promulgated.

2. First. When the reasons stated in the preamble of this Regulation

Mode of proceeding for placing individuals under restraint as state prisoners.

may seem to the Governor-General in Council to require that an individual should be placed under personal restraint, without any immediate view to ulterior proceedings of a judicial nature, a warrant of commitment under the authority of the Governor-General in Council, and under the hand of the Chief Secretary, or of one of the Secretaries to Government, shall be issued to the officer in whose custody such person is to be placed.

Form of warrant to be issued.

Second. The warrant of commitment shall be in the following form:—

To the [here insert the officer's designation].

"Whereas the Governor-General in Council, for good and sufficient reasons, has seen fit to determine that [here insert the state prisoner's name] shall be placed under personal restraint at [here insert the name of the place], you are hereby required and commanded, in pursuance of that determination, to receive the person abovenamed into your custody, and to deal with him in conformity to the orders of the Governor-General in Council, and the provisions of Regulation III of 1818.

"Fort William the

"By order of the Governor-General in Council,

"A. B., Chief Secy. to Govt."

Third. The warrant of commitment shall be sufficient authority for the detention of any state prisoner in any fortress, jail, or other place within the territories subject to the presidency of Fort William.

Warrant to be sufficient authority for detention of prisoner.

3. Every officer in whose custody any state prisoner may be placed shall, on the 1st of January and 1st of July of each year, submit a report to the Governor-General in Council, through the Secretary to Government in the political department, on the conduct, the health, and the comfort of such state prisoner, in

order that the Governor-General in Council may determine whether the orders for his detention shall continue in force or shall be modified.

4. First. When any state prisoner is in the custody of a zillah or city Magistrate, the Judges are to visit such state prisoner on the occasion of the periodical sessions, and they are to issue any orders concerning the treatment of the state prisoner which may appear to them advisable, provided they be not inconsistent with the orders of the Governor-General in Council issued on that head.

State prisoners in custody of zillah or city Magistrate by whom to be visited.

Second. When any state prisoner is placed in the custody of any public officer not being a zillah or city Magistrate, the Governor-General in Council will instruct either the zillah or city Magistrate, or the Judge or any other public officer, not being the person in whose custody the prisoner may be placed, to visit such prisoner at stated periods, and to submit a report to Government regarding the health and treatment of such prisoner.

State prisoners in custody of public officer not being zillah or city Magistrate, by whom to be visited.

5. The officer in whose custody any state prisoner may be placed, is to forward, with such observations as may appear necessary, every representation which such state prisoner may from time to time be desirous of submitting to the Governor-General in Council.

Representations by state prisoners to be submitted to Government.

6. Every officer in whose custody any state prisoner may be placed, shall, as soon after taking such prisoner into his custody as may be practicable, report to the Governor-General in Council, whether the degree of confinement to which he may be subjected appears liable to injure his health, and whether the allowance fixed for his support be adequate to the supply of his own wants and those of his family, according to their rank in life.

Early report to Government regarding confinement, &c., of state prisoners.

7. Every officer in whose custody any state prisoner may be placed, shall take care that the allowance fixed for the support of such state prisoner is duly appropriated to that object.

Allowance for support of state prisoner.

8. *Repealed by Act XVI of 1874.*

9. Whenever the Governor-General in Council, for the reasons declared in the preamble to this Regulation, shall judge it necessary to attach the estates or lands of any zemindar, jageerdar, talookdar, or other person, without any previous decision of a Court of Justice, or other judicial proceeding, the grounds on which the resolution of Government may have been adopted, and such other information connected with the case as may appear essential, shall be communicated, under the hand of one of the Secretaries to Government, to the Judge and Magistrate of the district in which the lands or estates may be situated, to the Sudder Dewanny Adawlut and Nizamut Adawlut.

Attachment of estates or lands by order of Government without decision of Court of Justice.

10. *First.* The lands or estates which may be so temporarily attached shall be held under the management of the officers of Government in the revenue department, and the collections shall be made and adjusted on the same principles as those of other estates held under *khas* management.

Management of lands or estates so attached.

Second. Such lands or estates shall not be liable to be sold in execution of decrees of the Civil Courts, or for the realization of fines or otherwise, during the period in which they may be so held under attachment.

Lands not liable to be sold on account of decree of Civil Court &c., while under attachment.

Third. In the cases mentioned in the preceding clause, the Government will make such arrangement as may be fair and equitable for the satisfaction of the decrees of the Civil Courts.

Government to arrange for satisfaction of decrees.

11. Whenever the Governor-General in Council shall be of opinion that the circumstances which rendered the attachment of such estate necessary have ceased to operate, and that the management of the estate can be committed to the hands of the proprietor without public hazard or inconvenience, the revenue authorities will be directed to release the estate from attachment, to adjust the accounts of the collections, during the period in

Rules to be observed in cases where Government may order release of an estate from attachment.

which they may have been superintended by the officers of Government, and to pay over to the proprietor the profits from the estate, which may have accumulated during the attachment.

NOTES.—(a). See Acts XXXIV of 1850 and III of 1858.

(b). The words in this Regulation repealed by Act XVI of 1874 have been omitted.

(c). The Lieutenant-Governor has directed that whenever it is deemed necessary that any person should be proceeded against under Regulation III of 1818, reference is to be made to the Government, through the Under Secretary in the Police Department, before any action is taken.—(*Punjab Government Circular No. 44—5741, dated 17th July 1871*).

REGULATION XI of 1825.

A REGULATION for declaring the Rules to be observed in determining claims to Lands gained by Alluvion, or by dereliction of a River, or the Sea.

(Passed on the 26th May 1825).

1. In consequence of the frequent changes which take place in the channel of the principal rivers that intersect the provinces immediately subject to the presidency of Fort William, and the shifting of the sands which lie in the beds of those rivers,

Preamble. *churs* or small islands are often thrown up by alluvion in the midst of the stream, or near one of the banks, and large portions of land are carried away by an encroachment of the river on one side, whilst accessions of land are at the same time, or in subsequent years, gained by dereliction of the water on the opposite side; similar instances of alluvion, encroachment, and dereliction also sometimes occur on the sea coast which borders the southern and south-eastern limits of Bengal. The lands gained from the rivers or sea by the means above mentioned are a frequent source of contention and affray, and although the law and custom of the country have established rules applicable to such cases, these rules not being generally known, the Courts of Justice have sometimes found it difficult to determine the rights of litigant parties claiming *churs* or other lands gained in the manner above described. The Court of Sudder Dewanny Adawlut, with a view to ascertain the legal provisions of the Mahomedan and Hindoo laws on this subject, called for reports from their law officers of each persuasion, and on consideration of the reports furnished by the law officers in consequence, as well as of the decisions which have been passed by the Court of Sudder Dewanny Adawlut in cases brought before them in appeal which involved the rights of claimants to lands gained by alluvion, or by dereliction of rivers or the sea, the Governor-General in Council has deemed it proper to enact the following rules for the general information of individuals, as well as for the guidance of the Courts of Judicature; to be in force, as soon as promulgated, throughout the whole of the provinces subject to the presidency of Fort William.

2. Whenever any clear and definite usage of *shekust pywust*, respecting the disjunction and junction of land by the encroachment or recess of a river, may have been immemorially established for determining the rights of the proprietors of two or more contiguous estates divided by a river (such as that the main channel of the river dividing the estates shall be the constant boundary between them, whatever changes may take place in the course of the river,

Claims and disputes relative to alluvial lands to be decided by immemorial and definite usage, when such shall be clearly recognised and established.

by encroachment on one side, and accession on the other), the usage so established shall govern the decision of all claims and disputes relative to alluvial land between the parties whose estates may be liable to such usage.

3. Where there may be no local usage of the nature referred to in the preceding section, the general rules declared in the following section shall be applied to the determination of all claims and disputes relative to lands gained by alluvion or by dereliction either of a river or the sea.

Where no such local usage may be established, the claims to be decided by the rules declared in the following section.

4. First. When land may be gained by gradual accession, whether from the recess of a river or of the sea, it shall be considered an increment to the tenure of the person to whose land or estate it is thus annexed, whether such land or estate be held immediately from Government by a *zemindar* or other superior landholder, or as a subordinate tenure by any description of under-tenant whatever. Provided that the increment of land thus obtained shall not entitle the person in possession of the estate or tenure to which the land may be annexed, to a right of property or permanent interest therein beyond that possessed by him in the estate or tenure to which the land may be annexed, and shall not in any case be understood to exempt the holder of it from the payment to Government of any assessment for the public revenue, to which it may be liable under the provisions of Regulation II, 1819, or of any other Regulation in force. Nor if annexed to a subordinate tenure, held under a superior landholder, shall the under-tenant, whether a *khodkast ryot*, holding a *mouroosee istemraree* tenure at a fixed rate of rent per *beegha*, or any other description of under-tenant liable by his engagement or by established usage to an increase of rent for the land annexed to his tenure by alluvion, be considered exempt from the payment of any increase of rent to which he may be justly liable.

Lands gained by gradual accession from the recess of a river or the sea, to be considered an increment to the tenure of the person to whose estate it may be annexed.

Proviso.

annexed, to a right of property or permanent interest therein beyond that possessed by him in the estate or tenure to which the land may be annexed, and shall not in any case be understood to exempt the holder of it from the payment to Government of any assessment for the public revenue, to which it may be liable under the provisions of Regulation II, 1819, or of any other Regulation in force. Nor if annexed to a subordinate tenure, held under a superior landholder, shall the under-tenant, whether a *khodkast ryot*, holding a *mouroosee istemraree* tenure at a fixed rate of rent per *beegha*, or any other description of under-tenant liable by his engagement or by established usage to an increase of rent for the land annexed to his tenure by alluvion, be considered exempt from the payment of any increase of rent to which he may be justly liable.

Second. The above rule shall not be considered applicable to cases in which a river, by a sudden change of its course, may break through and intersect an estate, without any gradual encroachment, or may by the violence of its stream separate a considerable piece of land from one estate, and join it to another estate, without destroying the identity, and preventing the recognition of the land so removed. In such cases the land, on being clearly recognised, shall remain the property of its original owner.

When a river by a sudden change of its course may breakthrough and intersect an estate, the lands so separated, being clearly recognised, shall remain the property of the original owner.

Third. When a *chur* or island may be thrown up in a large and navigable river (the bed of which is not the property of an individual), or in the sea, and the channel of the river or sea, between such island and shore, may not be fordable, it shall, according to established usage, be at the disposal of Government. But if the channel between such island and the shore be fordable at any season of the year, it shall be considered an accession to the land, tenure or tenures of the person or persons whose estate or estates may be most contiguous to it, subject to the several provisions specified in the first clause of this section, with respect to increment of land by gradual accession.

Churs or islands thrown up in a large and navigable river (the channel between the island and the shore not being fordable), to be at the disposal of Government.

But if fordable, to whom they shall belong.

may be most contiguous to it, subject to the several provisions specified in the first clause of this section, with respect to increment of land by gradual accession.

Fourth. In small and shallow rivers, the beds of which, with the *julker* right of fishery, may have been heretofore recognised as the property of individuals, any sand bank or *chur* that may be thrown up, shall, as hitherto, belong to the proprietor of the bed of the river, subject to the provisions stated in the first clause of the present section.

Fifth. In all other cases, viz., in all cases of claims and disputes respecting land gained by alluvion, or by dereliction of a river or the sea, which are not specifically provided for by the rules contained in this Regulation, the Courts of Justice, in deciding upon such claims and disputes, shall be guided by the best evidence they may be able to obtain of established local usage, if there be any applicable to the case, or if not by general principles of equity and justice.

5. Nothing in this Regulation shall be construed to justify any encroachments by individuals on the beds or channels of navigable rivers, or to prevent the zillah and city Magistrates or any other officers of Government, who may be duly empowered for that purpose, from removing obstacles which appear to interfere with the safe and customary navigation of such rivers, or which shall, in any respect, obstruct the passage of boats by tracking on the banks of such rivers, or otherwise.

NOTES.—(a). The rules regarding the *jurisdiction* and *dominion* over lands transferred by avulsion from British to Independent territory, and *vice versa*, are contained in Financial Commissioner's Circular No. 1 of 1874, which is as follows :

“ In 1860, on a reference from the Dera Ghazi Khan district, the orders of the Government of India were issued regarding the jurisdiction and dominion of lands transferred by avulsion from one bank to the other of a river which ordinarily forms the boundary between British territory and Independent States.

2. It has now been decided that the orders of the Government of India given in 1860 are applicable to all such cases.

An extract from the Government of India letter* is therefore herewith circulated for the guidance of those officers before whom cases of river boundary between British and Independent territory may be brought for decision or record.

3. It will be seen that the rule of maintaining the deep stream as the boundary, which obtains in cases of gain by gradual accretion or loss by gradual erosion, does not apply to cases of the nature referred to. In cases of avulsion the land transferred is held to undergo no change in respect of jurisdiction or dominion.

It has been further ruled by the Punjab Government, that the rule affirmed by the Government of India is to be regarded as having been in operation from the date of issue of the orders hereto appended, and for no anterior period. In deciding future boundary disputes to which the rule is applicable, reference must accordingly be made to the status of August 1860 as the basis of decision, subject to such modification as, under the operation of the rule regarding gradual accretion or erosion, will have to be made; but no transfer, by avulsion, of land capable of identification, which has taken place subsequent to the orders of 1860, will be held to have affected the boundary.

4. The question of proprietary or other subordinate rights in the land is not affected by these orders.”

Extract, paras 9, 10, and 12 of a letter No. 3631, dated 24th August 1860, from the Deputy Secretary to the Government of India, to the Secretary to the Government Punjab.

9. The Governor-General in Council directs me to observe that—
is not correct in assuming that, as betwixt Sovereigns, the only safe rule of practice is, that the main river should be the boundary irrespective of all other considerations. The rule is such only in cases of alluvion, and not in those of avulsion.

When a boundary river suddenly quits its bed, and cuts for itself a new channel, it ceases to be the boundary, and the Government which ruled over the territory cut off by the change in the river continues to rule it.

10. The above principle has been laid down in the case of the rivers which are in some places to form the new boundary between Nepal and Oudh. It has been ruled that these rivers shall continue to be the boundary, if their encroachments on either side are only gradual, and in the ordinary course of alluvion and diluvion, but not in the case of sudden changes in the bed of the deep stream whereby land capable of identification is cut away.

* * * * *

12. The question of proprietary right in the land, I am to add, is a totally different one and remains unaffected by the decision on the general question.

(b). As to the rights of occupancy tenants to lands submerged by fluvial action and subsequently restored, see Financial Commissioner's Book Circular No. XXI of 1877.

(c). Financial Commissioner's Book Circular No. XXXI of 1881, prescribes a revised statement of financial results and explains the procedure prescribed by Mr. Cust for reporting alluvion and diluvion changes. See also Circular No. 8 of 1885, and Circular Memo. No. 1384 of 1883.

**THE ACTS OF THE
GOVERNOR-GENERAL IN COUNCIL
APPLICABLE TO THE PUNJAB.**

THE ACTS OF THE GOVERNOR-GENERAL IN COUNCIL APPLICABLE TO THE PUNJAB.

ACT No. II of 1834.

(Passed on the 20th November 1834).

Be it enacted, that each of the Secretaries to the Government of India and to the Government of Fort William in Bengal, shall be competent to perform all the duties and to exercise all the powers which, by any Act of Parliament or any Regulation now in force, are assigned to the Chief Secretary to the Government of Fort William in Bengal, and that each of the Secretaries to the Government of Fort St. George and Bombay respectively shall be competent to perform all the duties and to exercise all the powers, which, by any Act of Parliament or any Regulation now in force, are assigned to the Chief Secretaries to the Governments of Fort St. George and Bombay respectively.

ACT No. XXVI of 1836.

(Passed on the 7th November 1836).

1. As often as the Governor-General of India, or the Commander-in-Chief of all the forces in India, or the Lieutenant-Governor of the N.-W. P., shall pass through any part of the territories of the East India Company, attended by a camp, it shall be lawful for the Governor-General of India in Council, by an order in Council, to appoint a Superintendent of the Police of such camp.

2. With respect to all offences committed in any such camp, or on the line of march between the stations of any such camp, such Superintendent shall have concurrent criminal jurisdiction with the Magistrate of the zillah or city within which such offence shall have been committed.

3. As often as the said Superintendent shall, by virtue of the powers conferred on him by the preceding clause, commit any person for trial before the Sessions Court, or sentence any person to imprisonment, it shall be lawful for the said Superintendent to transmit such person to the Magistrate of the zillah or city where the camp shall then be with a copy of the commitment or sentence, under the hand of him, the said Superintendent, and the said Magistrate shall give effect to such commitment or sentence.

4. All officers subordinate to the Magistrate of the zillah or city where

All officers to be assisting the Superintendent as they would the Magistrate.

such camp shall be, shall be assisting to the said Superintendent in the exercise of the powers conferred on him by this Act, in the same manner as they are bound to be assisting to the said Magistrate.

NOTE.—This Act is declared to be in force throughout the whole of British India, except the Scheduled Districts, by Act XV of 1874. It is declared to be in force in certain of the Scheduled Districts of the Punjab by Notifications No. 1071, dated 21st December 1885, and No. 396, dated 7th April 1886 (*vide* Notes (a) and (b) to Act XIV of 1874).

ACT No. IV of 1837.

(*Passed on the 16th April 1837*).

1. It shall be lawful for any subject of His Majesty to acquire and

Any subject of His Majesty may acquire and hold property in land.

hold in perpetuity, or for any term of years, property in land, or in any emoluments issuing out of land, in any part of the territories of the East India Company.

2. All rules which prescribe the manner in which such property

Persons holding land under this Act subject to the same rules as natives holding landed property.

as is aforesaid may now be acquired and held by natives of the said territories, shall extend to all persons who shall, under the authority of this Act, acquire or hold such property.

NOTES.—(a). This Act is declared to be in force throughout the whole of British India, except the Scheduled Districts, by Act XV of 1874; and in certain of the Scheduled Districts by Notifications No. 1071, dated 21st December 1885, and No. 396, dated 7th April 1886 (*vide* Notes (a) and (b) to Act XIV of 1874).

(b). As to the liability of holders of land in respect of public and police duties and public charges, see Act II of 1853.

(c). The Governor-General in Council has declared, in continuation of preceding orders upon the same subject, that covenanted civil servants, and military officers in civil employ, and all persons holding civil offices ordinarily held by covenanted or commissioned officers of the two classes aforesaid, are prohibited henceforward from acquiring or holding land within the province with the administration of which they are concerned, whether that connection be permanent or temporary. This order does not necessarily take retrospective effect. (*Notification No. 187, dated 13th February 1874, Punjab Gazette of 19th idem*).

(d). As regards the possession of land by uncovenanted officers, see Punjab Government Circular No. 46-853, dated 22nd June 1872. For orders regarding the holding of land by natives of India who are appointed to the Civil Service, see Government of India No. 11-426-37, dated 17th March 1882, and No. 26-1009, dated 21st July 1882. See also Financial Commissioner's Circular No. 28 of 1887.

ACT No. XXXII of 1839.

(*Passed on the 30th December 1839*).

An Act concerning the allowance of Interest in certain cases.

Whereas it is expedient to extend to the territories under the government of the East India Company, as well within the jurisdiction of Her Majesty's Courts as elsewhere, the provisions of the Statute 3rd and 4th William IV, Chapter 42, Section 28, concerning the allowance of interest in certain cases :

Preamble.

It is, therefore, hereby enacted, that upon all debts or sums certain, payable at a certain time or otherwise, the Court before which such debts or sums may be recovered, may, if it shall think fit, allow interest to the creditor at a rate not exceeding the current rate of interest from the time when such debts or sums certain were payable, if such debts or sums be payable by virtue of some written instrument at a certain time, or if payable otherwise, then from the time when demand of payment shall have been made in writing, so as such demand shall give notice to the debtor that interest will be claimed from the date of such demand until the term of payment; provided that interest shall be payable in all cases in which it is now payable by law.

NOTES.--(a). This Act is declared to be in force throughout the whole of British India, except the Scheduled Districts, by Act XV of 1874, and in certain of the Scheduled Districts of the Punjab by Notifications No. 1071, dated 21st December 1885, and No. 396, dated 7th April 1886 (*vide* Notes (a) and (b) to Act XIV of 1874).

(b). This Act is not affected by Act XXVIII of 1855 (*An Act for the Repeal of the Usury Laws*).

ACT No. XIX of 1841.

(Passed on the 6th September 1841).

An Act for the protection of moveable and immoveable property against wrongful possession in cases of successions.

Whereas much inconvenience has been experienced where persons have died possessed of moveable and immoveable property, and the same has been taken upon pretended claims of right by gift or succession; the difficulty of ascertaining the precise nature of the moveable property in such cases, the opportunities for misappropriating such property and also the profits of real property, the delays of a regular suit when vexatiously protracted, and the inability of heirs when out of possession to prosecute their rights, affording strong temptations for the employment of force or fraud in order to obtain possession. And whereas, from the above causes, the circumstance of actual possession, when taken upon a succession, does not afford an indication of rightful title equal to that of a decision by a Judge after hearing all parties in a summary suit, though such summary suit may not be sufficient to prevent a party removed from possession thereby from instituting a regular suit. And whereas such summary suit, though it will take away many of the temptations which exist for assuming wrongful possession upon a succession, will be too tardy a remedy for obviating them all, especially as regards moveable property. And whereas it may be expedient, prior to the determination of the summary suit, to appoint a Curator to take charge of property upon a succession, where there is reason to apprehend danger of misappropriation, waste or neglect, and where such appointment will, in the opinion of the authority making the same, be beneficial under all the circumstances of the case. And whereas it will be very inconvenient to interfere with successions to estates by the appointment of Curators, or by summary suits, unless satisfactory grounds for such proceedings shall appear, and unless such proceedings shall be required by or on the behalf of parties giving satisfactory proof that they are likely to be materially prejudiced if left to the ordinary remedy of a regular suit;

1. It is hereby enacted, that whenever a person dies leaving property,

Whenever a person dies, leaving property, the person claiming to succeed may apply for relief to the Judge, either in case of actual or of apprehended possession by another.

moveable or immoveable, it shall be lawful for any person claiming a right by succession thereto, or to any portion thereof, to make application to the Judge of the Court of the district where any part of the property is found or situate for relief, either after actual possession has been taken by another person, or when forcible means of seizing possession are apprehended.

2. It shall be lawful for any agent, relative, or near friend, or for

Agent, or Court of Wards in case of minor, disqualified or absent person being entitled to succession, to make application.

the Court of Wards in cases within their cognizance, in the event of any minor, disqualified, or absent person being entitled by succession to such property as aforesaid, to make the like application for relief.

3. The Judge to whom such application shall be made shall, in the

Judge to enquire whether the party in possession has no lawful title and that the applicant is likely to be prejudiced.

first place, enquire by the solemn declaration of the complainant, and by witnesses and documents at his discretion, whether there be strong reasons for believing that the party in possession or taking forcible means for seizing possession has no lawful title, and that the applicant, or the person on whose behalf he applies is really entitled, and is likely to be materially prejudiced if left to the ordinary remedy of a regular suit, and that the application is made *bonâ fide*.

4. In case the Judge shall be satisfied of the existence of such

If Judge be satisfied, he shall cite the party complained of and deliver possession, but may appoint an officer to take an inventory.

strong ground of belief, but not otherwise, he shall cite the party complained of, and give notice of vacant or disturbed possession by publication, and after the expiration of a reasonable time shall determine summarily the right to possession (subject to regular suit as hereinafter mentioned), and shall deliver possession accordingly. Provided always, that the Judge shall have the power to appoint an officer who shall take an inventory of effects, and seal or otherwise secure the same, upon being applied to for the purpose, without delay, whether he shall have concluded the enquiry necessary for citing the party complained of or not.

5. In case it shall further appear upon such application and examination as aforesaid, that danger is to be apprehended of the misappropriation or waste of the property before the summary suit can be determined, and that the delay in obtaining security from the party in possession, or the insufficiency thereof is likely to expose the party out of possession to considerable risk, provided he be the lawful owner; it shall be lawful for the Judge to appoint one or more Curators with the powers hereinafter next mentioned, whose authority shall continue according to the terms of his or their respective appointments, and in no case beyond the determination of the summary suit and the confirmation or delivery of possession in consequence thereof. Provided always, that, in the case of land, the Judge may delegate to the Collector or to his officer the powers of a Curator, and also that every appointment of a Curator in respect of any property be duly published.

If there appear danger of misappropriation of property before determination of summary suit, the Judge may appoint Curators, till determination of summary suit.

nation as aforesaid, that danger is to be apprehended of the misappropriation or waste of the property before the summary suit can be determined, and that the delay in obtaining security from the party in possession, or the insufficiency thereof is likely to expose the party

out of possession to considerable risk, provided he be the lawful owner; it shall be lawful for the Judge to appoint one or more Curators with the powers hereinafter next mentioned, whose authority shall continue according to the terms of his or their respective appointments, and in no case beyond the determination of the summary suit and the confirmation or delivery of possession in consequence thereof. Provided always, that, in the case of land, the Judge may delegate to the Collector or to his officer the powers of a Curator, and also that every appointment of a Curator in respect of any property be duly published.

NOTE.—As to the powers and responsibilities of Curators appointed under this Act wh may be invested with certain powers which are conferred on persons obtaining certificate under Act XXVII of 1860, see Section 17 of that Act.

6. The Judge shall have power to authorize such Curator, either to

Curator to take possession either generally or under limitation. Party in possession may retain possession conditionally.

take possession of the property generally, or until security be given by the party in possession, or until inventories of the property shall have been made, or for any other purpose necessary for securing the property from misappropriation or waste by the party in possession. Provided always, that it shall be entirely discretionary with the Judge, whether he shall allow the party in possession to continue in such possession on giving security or not, and any continuance in possession shall be subject to such orders as the Judge may issue touching inventories, or the securing of deeds or other effects.

7. The Judge shall exact from the Curator security for the faithful

Curator to give security. His remuneration not to exceed 5 per cent. on personalty and annual profits of realty.

discharge of his trust, and for rendering satisfactory accounts of the same as hereinafter mentioned, and may authorize him to receive out of the property such remuneration as shall appear reasonable, but in no case exceeding five per centum on the personal property and on the annual profits of the real property. All surplus monies realized by the Curator shall be paid into Court, and invested in public securities for the benefit of the persons entitled thereto upon adjudication of the summary suit. Provided always, that although security shall be required from the Curator with all reasonable despatch, and, where it is practicable, shall be taken generally to answer all cases for which the person may be afterwards appointed Curator, yet no delay in the taking of security shall prevent the Judge from immediately investing the Curator with the powers of his office.

8. Where the estate of the deceased person shall consist wholly or in

If the property consist of land paying revenue, Judge shall demand a report from the Collector.

part of land paying revenue to Government, in all matters regarding the propriety of citing the party in possession, of appointing a Curator, and of nominating individuals to that appointment, the Judge shall demand a report from the Collector, and the Collector is hereby required to furnish the same. In cases of urgency the Judge may proceed, in the first instance, without such report, and he shall not be obliged to act in conformity thereto; but, in case of his acting otherwise than according to such report, he shall immediately forward a statement of his reasons to the Court of Sudder Dewanny Adawlut, and the Court of Sudder Dewanny Adawlut, if they shall be dissatisfied with such reasons, shall direct the Judge to proceed conformably to the report of the Collector.

9. The Curator shall be subject to all orders of the Judge regarding

Curator to be subject to Judge's orders regarding suits, and may give discharges for debts or rents, if expressly authorized to collect them.

the institution or the defence of suits, and all suits may be instituted or defended in the name of the Curator on behalf of the estate. Provided, that an express authority shall be requisite in the sunnud of the Curator's appointment for the collection of debts or rents; but such express authority shall enable the Curator to give a full acquittance for any sums of money received by virtue thereof.

10. Pending the

Pending custody by Curator, Judge may order allowances to parties having apparent right.

custody of the property by the Curator, it shall be lawful for the Judge to make such allowances to parties having a *prima facie* right thereto, as upon a summary investigation of the rights and circumstances of the parties interested, he shall

consider that necessity may require, taking at his discretion security for the repayment thereof with interest, in case the party shall, upon the adjudication of the summary suit, appear not to be entitled thereto.

11. The Curator shall file monthly accounts in abstract, and at the period of every three months, if his administration last so long, and upon giving up the possession of the property, file a detailed account of his administration to the satisfaction of the Judge.

Curator to file accounts monthly and quarterly.

12. The accounts of any such Curator as is above described shall be open to the inspection of all parties interested ; and it shall be competent for any such interested party to appoint a separate person to keep a duplicate account of all receipts and payments by such Curator. And if it be found that the accounts of any such Curator are in arrear, or if they shall be erroneous or incomplete, or if the Curator shall not produce them whenever he shall be ordered to do so by the Judge, he shall be liable to a fine not exceeding one thousand rupees for every such default.

Any interested person may inspect Curator's accounts, and keep a separate account.

13. After the Judge of any district shall have appointed any Curator, such appointment shall preclude the Judge of any other district within the same presidency from appointing any other Curator, provided the first appointment be in respect of the whole of the property of the deceased. But if the appointment be only in respect of a portion of the property of the deceased, this shall not preclude the appointment within the same presidency of another Curator in respect of the residue or any portion thereof ; Provided always that no Judge shall appoint a Curator or entertain a summary suit in respect of property which is the subject of a summary suit previously instituted under this Act before another Judge ; And provided further, that if two or more Curators be appointed by different Judges for several parts of an estate, it shall be lawful for the Sudder Dewanny Adawlut to make such order as it shall think fit for the appointment of one Curator of the whole property.

No second Curator to be appointed unless the first be appointed only for part of the property.

14. This Act shall not be put in force, unless the aforesaid application to the Judge be made within six months of the decease of the proprietor, whose property is claimed by right in succession.

Application for a Curator must be made within six months.

15. This Act shall not be but in force to contravene any public act of settlement. Neither in cases in which the deceased proprietor shall have given legal directions for the possession of his property after decease, in the event of minority or otherwise, in opposition to such directions ; but, in every such case, so soon as the Judge having jurisdiction over the property of a deceased person, shall be satisfied of the existence of such directions, he shall give effect thereto.

Curator not to be appointed, when the deceased has given legal directions for the possession of his property after death.

16. This Act shall not be put in force, for the purpose of disturbing the possession of the Court of Wards of any presidency ; and in case a minor, or other disqualified person, whose property shall be subject to the Court of Wards shall be the party on whose behalf application is made under this Act, the Judge,

In the case of minors, &c., Judge to invest the Court of Wards with the Curatorship without security.

if he determines to cite the party in possession, and also appoint a Curator, shall invest the Court of Wards with the Curatorship of the estate pending the suit, without taking such security as aforesaid, and in case the minor or other disqualified person shall, upon the adjudication of the summary suit appear to be entitled to the property, possession shall be delivered to the Court of Wards.

17. Nothing in this Act contained shall be any impediment to the bringing of a regular suit, either by the party whose application may have been rejected, before or after citing the party in possession, or by the party who may have been evicted from the possession under this Act.

Rejected applicant or party evicted may bring a regular suit.

18. The decision of the Judge upon the summary suit under this Act shall have no other effect than of settling the actual possession; but for this purpose it shall be final, not subject to any appeal or order for review.

Judge's decision to be final only as to the actual possession.

19. It shall be lawful for the Governments of the respective presidencies to appoint public Curators for any district or number of districts. And the Judge having jurisdiction shall nominate such public Curator or Curators in all cases where the choice of a Curator is left discretionary with him under preceding provisions of this Act.

Government may appoint public Curators for any number of districts.

20. *Repealed by Act VIII of 1855.*

NOTES.—(a). This Act is declared to be in force throughout the whole of British India, except the Scheduled Districts, by Act XV of 1874, and in certain of the Scheduled Districts of the Punjab by Notifications No. 1071, dated 21st December 1885, and No. 396, dated 7th April 1886 (*vide* Notes (a) and (b) to Act XIV of 1874).

(b). If the estate of a minor consist of moveable property or of houses, gardens or the like, the Court may grant a certificate of administration to the public Curator appointed under this section.—(*Act XL of 1858, Section 18, et seq.*).

(c). Application for enquiry for the purpose of ascertaining whether a person alleged to be a lunatic is or is not of unsound mind and incapable of managing his affairs may be made to a Civil Court by any public Curator appointed under this Act.—(*Act XXXV of 1858, Section 3*).

ACT No. XXIV of 1841.

(*Passed on the 18th October, 1841*).

An Act for the greater uniformity of the law administered by Her Majesty's Supreme Courts with that administered in England, in regard to the undisposed residue of the effects of testators; illusory appointments; the transfer of estates by persons under disabilities pursuant to the direction of Courts, and the better management of the property of such persons and other like matters.

1. *Repealed by Act VIII of 1868.*

2. The Statute 11 George IV. and 1 William IV. Ch. 46, entitled "An Act to alter and amend the law relating to illusory appointments," and the Statute 11 George IV. and 1 William IV. Cap. 65, entitled "An Act

Stat. 11, George IV. and 1 William IV. C. 46. extended to India.

for consolidating and amending the law relating to property belonging to infants, feme coverts, idiots, lunatics and persons of unsound mind," shall be extended to the territories of the East India Company, as far as it is applicable to the same.

3. *Repealed by Act XXVII of 1866.*

4. *Repealed by Act VIII of 1868.*

5. This Act shall not be construed to affect any case which would not have been governed by English law as administered by Her Majesty's Supreme Courts previous to the passing thereof, or any proceedings at law or in equity commenced before the first day of January next.

NOTES.—(a). The whole of this Act, except so far as it relates to illusory appointments and infants, and except Section 5, is repealed by Act VIII of 1868.

(b). The words repealed by Act XVI of 1874 have been omitted.

ACT No. IX of 1842.

(Passed on the 2nd September 1842).

An Act for extending the Statute Ch. XXI. 4th and 5th of Queen Victoria in certain cases to the territories of the East India Company.

1. It is hereby enacted, that the Statute Ch. 21 of the 4th and 5th years of the reign of Queen Victoria, entitled "An Act for rendering a release as effectual for the conveyance of freehold estates as a lease and release by the same parties," shall be extended to the territories of the East India Company from the first day of October next; provided always, that this Act shall not be construed to affect any case which would not have been governed by the law of England before the passing of the aforesaid Statute if this Act had not passed, and provided that every deed or instrument of release taking effect under this Act shall be expressed to be made in pursuance thereof; and it shall not be necessary that it be expressed to be made in pursuance of the Statute aforesaid.

An Act for rendering a release as effectual for the conveyance of freehold estates as a lease and release by the same parties.

(18th May 1841).

"Whereas it is expedient to lessen the expense of conveying freehold estates:" Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of

Preamble.

the Lords Spiritual and Temporal and Commons, in this present Parliament assembled, and by the authority of the same, that every deed or instru-

ment of release of a freehold estate, or deed or instrument purporting or intending to be a deed or instrument of release of a freehold estate, which shall be executed on or after the 15th day of May 1841, [and shall be expressed to be made in pursuance of this Act], shall be as effectual for the purposes therein expressed and shall take effect as a conveyance to uses or otherwise, and shall operate in all respects both at law and equity as if the releasing party or parties who shall have executed the same had also executed in due form a deed or instrument of bargain and sale or lease for a year for giving effect to such release, although no such deed or instrument of bargain and sale or lease for a year shall be executed; Provided that every such deed or instrument so taking effect under this Act shall be chargeable with the same amount of stamp duty as any bargain and sale or lease for a year would have been chargeable with (except progressive duty) if executed to give effect to such deed or instrument, in addition to the stamp duties which such deed or instrument shall be chargeable with as a release or otherwise under any Act or Acts relating to stamp duties.

2. "And whereas many deeds or instruments of bargain and sale or leases for a year, to give effect to deeds or instruments of release of freehold estates heretofore executed have been lost or mislaid: "Be it enacted, that where, in or by any deed or instrument of release of freehold estates executed before the 15th day of May 1841, any deed or instrument of bargain and sale or lease for a year for giving effect to such deed or instrument of release shall be recited, or by any mention thereof in such deed or instrument of release appear to have been made or executed, such recital or mention thereof shall be deemed and taken to be conclusive evidence of the deed or instrument of bargain and sale or lease for a year so recited or mentioned having been made and executed; and such deed or instrument of release shall also have the like effect as if the same had been executed after the 15th day of May 1841, whether such deed, or instrument of bargain and sale, or lease for a year shall or shall not have been lost or mislaid, or may or may not be produced; Provided always, that this Act shall not prejudice or affect any proceeding at law or in equity pending at the time of the passing of this Act, in which the validity of any bargain and sale or lease for a year shall be in question between the party claiming under such bargain and sale or lease for a year and the party claiming adversely thereto, and such bargain and sale or lease for a year, if the result of such proceedings shall invalidate the same, shall not be rendered valid by this Act.

3. And be it enacted, that, in the construction of this Act, the word "freehold" shall have not only its usual signification, but shall extend to all lands and hereditaments for the conveyance of which, if this Act had not been passed, a bargain and sale or lease for a year, as well as a release, would have been used.

NOTE.—This Act has been repealed by Act IV of 1882 in the territories to which that Act extends.

It has been declared to be in force in certain of the Scheduled Districts of the Punjab by Notifications No. 1071, dated 21st December 1885, but not to be in force in the Scheduled District of Lahoul by Notification No. 397, dated 7th April 1886 (*vide* Notes (a) and (b) to Act XIV of 1874).

ACT No. V of 1843.*(Passed on the 7th April 1843).*

An Act for declaring and amending the law regarding the condition of Slavery within the territories of the East India Company.

1. No public officer shall, in execution of any decree or order of Court, or for the enforcement of any demand of rent or revenue, ~~sell or cause to be sold any person, or the right to the compulsory labour or services of any person, on the ground that such person is in a state of slavery.~~

No public officer shall sell in execution of decree, &c, any person or the right to his compulsory services.

2. No rights arising out of an alleged property in the person and services of another as a slave shall be enforced by any civil or criminal Court or Magistrate within the territories of the East India Company.

No right arising out of an alleged property in the person or services of another as a slave shall be enforced.

3. No person who may have acquired property by his own industry, or by the exercise of any art, calling or profession, or by inheritance, assignment, gift or bequest, shall be dispossessed of such property or prevented from taking possession thereof, on the ground that such person from whom the property may have been derived was a slave.

Property acquired by slave's industry, or derived from him, to be acknowledged by law.

4. Any act, which would be a penal offence if done to a free man, shall be equally an offence if done to any person on the pretext of his being in a condition of slavery.

No act to be any the less a penal offence on account of its being done to an alleged slave.

NOTE.—This Act has been declared to be in force in certain of the Scheduled Districts of the Punjab (*vide* Notes (a) and (b) to Act XIV of 1874).

ACT No. XX of 1847.*(Passed on the 8th December 1847).*

An Act for the encouragement of learning in the territories subject to the Government of the East India Company, by defining and providing for the enforcement of the right called Copyright therein.

Whereas doubts may exist whether the right called copyright can be enforced by the common-law of England in those parts of the territories subject to the Government of the East India Company into which the common law of England has been introduced :

Preamble.

And whereas doubts may exist whether the said right can be enforced of virtue of the principles of equity and good conscience in the other parts by the territories subject to the Government of the East India Company :

And whereas, for the encouragement of learning, it is desirable that the existence of the said right should be placed beyond doubt, and that the said right should be made capable of easy enforcement in every part of the said territories :

And whereas it is doubtful whether the Act of Parliament 5 and 6 Victoria, c. 45, entitled "*An Act to amend the law of Copyright*," although such Act extends to every part of the British dominions, has made appropriate and sufficient provisions for the enforcement, in every part of the said territories subject to the government of the East India Company, of the said right by proprietors thereof; and whether the said Act of Parliament has made provision for the enforcement of the said right by or against any person not being subject to the jurisdiction of the Courts established by Her Majesty's charter :

1. It is therefore hereby enacted, that the copyright in every book published in the life-time of its author within the

Copyright in every book published in India after 28th Aug., 1833, shall endure for forty-two years; and if the book be published in the life-time of the author, for seven years after his death, if such period be a longer one. Copyright to belong to the proprietor of the author's MS.

said territories, after the passing of the Act of Parliament 3 and 4 Wm. IV., c. 85, entitled "*An Act for effecting an arrangement with the East India Company, and for the better government of His Majesty's Indian Territories till the 30th day of April, 1854*," shall endure for the natural life of such author, and for the further term of seven years, commencing at the time of his death, and shall be the property of such author and his assigns: Provided

always that, if the said term of seven years shall expire before the end of forty-two years from the publication of such book, the copyright shall in that case endure for such period of forty-two years; and that the copyright in every book published after the death of its author, and after the passing of the Act of Parliament last aforesaid, shall endure for the term of forty-two years from the first publication thereof, and shall be the property of the proprietor of the author's manuscript, from which such book shall be first published, and his assigns.

2. And whereas it is expedient to provide against the suppression of

G. G. in C. on complaint that any book may be withheld from the public by the proprietor after the author's death, may grant a license for publication thereof.

books of importance to the public: It is enacted, that it shall be lawful for the Governor-General in Council, on complaint made to them that the proprietor of the copyright in any book published after the passing of this Act within the said territories

has, after the death of its author, refused to republish, or to allow the republication of the same, and that by reason of such refusal such book may be withheld from the public, to grant a license to such complainant to publish such book in such manner and subject to such conditions as they may think fit, and it shall be lawful for such complainant to publish such book according to such license.

3. A book of registry, wherein may be registered, as hereinafter enacted, the proprietorship in the copyright of books

Registry of copyrights, and of assignments and licenses affecting the same, where to be kept.

and assignments thereof, and licenses affecting such copyright, shall be kept in the office of the Secretary to the Government of India for the Home Department, and shall at all convenient times be opened to the inspection of any

person on payment of eight annas for every entry which shall be searched for or inspected in the said book. Such officer shall, whenever thereunto

reasonably required, give a copy of any entry in such book, certified under his hand, to any person requiring the same, on payment to him of the sum of two rupees, and such copies so certified shall be received in evidence in all Courts and in all summary proceedings, and shall be *prima facie* proof of the proprietorship or assignment of copyright or license as therein expressed, but subject to be rebutted by other evidence.

4. *Repealed by Act XVII of 1862.*

5. It shall be lawful for the proprietor of copyright in any book published after the passing of the said Act of Parliament 3 and 4 Wm. IV, c. 85, to make entry in the registry book of the title of such book, the time of the first publication, and the name and place of abode of the publisher thereof, and the name and place of abode of the proprietor of the copyright of the said book, or of any portion of such copyright, in the form in that behalf given in the schedule to this Act annexed, upon payment of the sum of two rupees to the said Secretary. It shall be lawful for every such registered proprietor to assign his interest, or any portion of his interest therein, by making entry in the said book of registry of such assignment, and of the name and place of abode of the assignee thereof, in the form given in that behalf in the said schedule, on payment of the like sum; and such assignment so entered shall be effectual in law to all intents and purposes whatsoever, and shall be of the same force and effect as if such assignment had been made by deed.

NOTE.—See Act XXV of 1867, Section 18. The words in this section repealed by Act I of 1879 have been omitted.

6. If any person shall deem himself aggrieved by any entry made under colour of this Act in the said book of registry, it shall be lawful for such person to apply by motion to the Supreme Court of Calcutta, or, if the Court shall not be then sitting, to any Judge of such Court sitting in chambers, for an order that such entry may be expunged or varied. Upon any such application to the said Court, or to a Judge as aforesaid, such Court or Judge shall make such order for expunging, varying, or confirming such entry, either with or without costs, as to such Court or Judge shall seem just, and the said Secretary shall, on the production to him of any such order for expunging or varying any such entry, expunge or vary the same according to the requisitions of such order.

7. If any person shall print, or cause to be printed, either for sale or exportation, any book in which there shall be subsisting copyright, without the consent in writing of the proprietor thereof, or shall have in his possession for sale or hire any such book so unlawfully printed, without such consent as aforesaid, such offender shall be liable to a suit in the highest local Court exercising original civil jurisdiction.

8. In any suit or action brought in any of the Courts of Judicature established by Her Majesty's charter under the provisions of this Act against any person for printing any such book for sale, hire, or exportation, or for selling, publishing, or exposing to sale or hire, or causing to be sold, published, or exposed to sale or hire, or for having in his possession for sale or hire any such

In an action in the Supreme Court, defendant shall specify by written notice the particulars of his defence, and shall not give evidence of objections not so stated.

book so unlawfully printed, the defendant, on pleading thereto, shall give to the plaintiff a notice in writing of any objections on which he means to rely on the trial of such action, and if the nature of his defence be that the plaintiff in such action was not the author or first publisher of the book in which he shall by such action claim copyright, or is not the proprietor of the copyright therein, or that some other person than the plaintiff was the author or first publisher of such book, or is the proprietor of the copyright therein, then the defendant shall specify in such notice the name of the person whom he alleges to have been the author or first publisher of such book, or the proprietor of the copyright therein, together with the title of such book, and the time when and the place where such book was first published, otherwise the defendant in such action shall not, at the trial or hearing of such action, be allowed to give any evidence that the plaintiff in such action was not the author or first publisher of the book in which he claims such copyright as aforesaid, or that he was not the proprietor of the copyright therein, and at such trial or hearing no other objection shall be allowed to be made on behalf of such defendant than the objections stated in such notice, or that any other person was the author or first publisher of such book, or the proprietor of the copyright therein, than the person specified in such notice, or give in evidence in support of his defence any other book than one substantially corresponding in title, time, and place of publication with the title, time, and place specified in such notice.

9. In any such suit or action as last aforesaid brought in any zillah

In an action in any local Court, the defendant shall specify similar particulars in his answer under similar penalty.

Court or other local Court as aforesaid, the defendant shall state in his answer all such matters as he means to rely on, and which by the last preceding section the defendant in any suit or action brought in any of the Courts of Judicature established by Her Majesty's charter is required to give notice of in writing, otherwise such defendant shall be subject to the same consequences for any omission in his answer as a defendant is made subject to by the last preceding section for any omission in his notice.

10. When any publisher or other person shall, within the said territories,

Any person publishing on certain terms a periodical work or serial, shall have the same rights as if he were the author, except that the right of publishing separately shall revert after twenty-eight years to the author; and during those twenty-eight years shall not be exercised by the proprietor without the author's consent.

before or at the time of the passing of this Act, but after the passing of the said Act of Parliament 3 and 4 Wm. IV., c. 85, have projected, conducted, and carried on, or shall hereafter project, conduct or carry on, or be the proprietor of any encyclopædia, review, magazine, periodical work, or work published in a series of books or parts, or any book whatsoever, and shall have employed or shall employ any person to compose the same, or any volumes, parts, essays, articles, or portions thereof for publication in or as part of the same, and such work, volumes, parts, essays, articles, or portions shall have been, or shall hereafter be, composed under such employment, on the terms that the copyright therein shall belong to such proprietor, projector, publisher or conductor, and paid for by such proprietor, projector, publisher, or conductor, the copyright in every such encyclopædia, review, magazine, periodical work, or work published in a series of books or parts, and in every volume, part, essay, article and portion so composed and paid for, shall be the property of such proprietor, projector, publisher, or conductor, who shall enjoy the same rights as if he were the actual author thereof, and shall have such term of

copyright therein as is given to the authors of books by this Act, except only that in the case of essays, articles, or portions forming part of and first published in reviews, magazines or other periodical works of a like nature, after the term of twenty-eight years from the first publication thereof respectively, the right of publishing the same in a separate form shall revert to the author for the remainder of the term given by this Act. Provided always, that during the term of twenty-eight years the said proprietor, projector, publisher, or conductor shall not publish any such essay, article or portion separately or singly without the consent previously obtained of the author thereof or his assigns: Provided also that nothing herein contained shall alter or affect the right of any person who shall have been or shall be so employed as aforesaid to publish any such his composition in a separate form, who by any contract, express or implied, may have reserved or may hereafter reserve to himself such right, but every author reserving, retaining, or having such right, shall be entitled to the copyright in such composition when published in a separate form according to this Act without prejudice to the right of such proprietor, projector, publisher, or conductor as aforesaid.

11. The proprietor of the copyright in any encyclopædia, review, magazine, periodical work, or other work published in a series of books or parts shall be entitled to all the benefits of the registration in the office of the Secretary to the Government of India for the Home Department, under this Act, on entering in the said book of registry the title of such encyclopædia, review, periodical work or other work published in a series of books or parts, the time of the first publication of the first volume, number, or part thereof, or of the first volume, number, or part first published after the passing of this Act in any such work which shall have been published heretofore, and after the passing of the said Act of Parliament 3 and 4 William IV., c. 85, and the name and place of abode of the proprietor thereof, and of the publisher thereof when such publisher shall not also be the proprietor thereof.

12. All copies of any book wherein there shall be copyright, and of which entry shall have been made in the said registry book, and which shall have been unlawfully printed without the consent of the registered proprietor of such copyright in writing under his hand first obtained, shall be deemed to be the property of the proprietor of such copyright, and who shall be registered as such, and such registered proprietor shall, after demand thereof in writing, be entitled to sue for and recover the same or damages for the detention thereof.

13. If the case be within the jurisdiction of any of the Courts of Judicature established by Her Majesty's charter, such registered proprietor shall be entitled to sue for and recover such copies, or damages for the detention thereof, in an action of detinue, from any party who shall detain the same, or to sue for and recover damages for the conversion thereof in an action of trover; and if the case be within the jurisdiction of any zillah Court or other local Court as aforesaid, the registered proprietor shall be entitled to sue for and recover such copies or damages for the detention or conversion thereof, in such form as is in use in the said zillah or other local Courts for the recovery of specific personal property or damages for the detention or conversion thereof.

14. No proprietor of copyright in any book first published after the passing of the said Act of Parliament 3 and 4 Wm. IV., c. 85, shall maintain, under the provisions of this Act, any action or suit at law or in equity, or any summary proceedings in respect of any infringement of such copyright, unless he shall, before commencing such action, suit, or proceeding, have caused an entry to be made in the book of registry at the office of the said Secretary of such book, pursuant to this Act. Provided always that the omission to make such entry shall not affect the copyright in any book, nor the right to sue or proceed in respect of the infringement thereof, except the right to sue or proceed in respect of the infringement thereof under the provisions of this Act.

15. If any action or suit shall be commenced or brought in any of the Courts of Judicature established by Her Majesty's charter against any person or persons whomsoever, for doing or causing to be done anything in pursuance of this Act, the defendant or defendants in such action may plead the general issue, and give the special matter in evidence; and if upon such action a verdict shall be given for the defendant, or the plaintiff shall become non-suited, or discontinue his action, then the defendant shall have and recover his full costs, for which he shall have the same remedy as a defendant in any case by law hath in the said last-mentioned Courts.

16. Indictments, informations and other criminal proceedings for any offence which shall be committed against the Act shall be brought, sued, and commenced within twelve calendar months next after such offence committed, or else the same shall be void and of none effect.

NOTE.—The words repealed by Act IX of 1871 are omitted.

17. *Repealed by Act XIV of 1870.*

NOTE.—This Act is declared to be in force throughout the whole of British India, except the Scheduled Districts, by Act XV of 1874, and to be in force in certain of the Scheduled Districts of the Punjab by Notifications No. 1071, dated 21st December 1885, and No. 396, dated 7th April 1886 (*vide* Notes (a) and (b) to Act XIV of 1874). The words repealed by Act XVI of 1874 and Act XII of 1876 have been omitted from the text.

SCHEDULE.

No. 1.

Original Entry of Proprietorship of Copyright of a Book.

Time of making the Entry.	Title of Book.	Name of the Publisher and place of publication.	Name and Place of abode of the Proprietor of the Copyright.	Date of first publication.

No. 2.

Form of Entry of Assignment of Copyright in any Book previously registered.

Date of Entry.	Title of Book.	Assignor of the Copyright.	Assignee of the Copyright.
	(Set out the title of the book and refer to the page of the registry book in which the original entry of the copyright thereof is made).		

ACT No. XII of 1850.*(Passed on the 22nd March 1850).*

For avoiding loss by the default of Public Accountants.

For better avoidance of loss through the default of public accountants, it is enacted as follows :

Preamble.

1. Every public accountant shall give security for the due discharge of the trusts of his office, and for the due account of all monies which shall come into his possession or control by reason of his office.

Public accountants to give security for due performance of duties.

2. In default of any Act having special reference to the office of any public accountant, the security given shall be of such amount and kind, real or personal, or both, and with such sureties (regard being had to the nature of the office), as shall be required by any rules made or to be made, from time to time, by the authority by which each public accountant is appointed to his office, subject to the approval of the Governor or Governor in Council of the presidency or place.

If not otherwise regulated, the security to be such as may be required by any rules made by person appointing.

3. Every person is a public accountant within the meaning of this Act, who, by reason of any office held by him in the service of the East India Company, is entrusted with the receipt, custody or control of any monies or securities for money, or the management of any lands belonging to the East India Company, or as Official Assignee or Trustee, or as surbarahkar, or in any other official capacity, with the receipt, custody or control of any monies or securities for money, or the management of any lands belonging to any other person or persons.

Who to be deemed a public accountant.

4. The person or persons at the head of the office to which any public accountant belongs may proceed against any such public accountant and his sureties, for any loss or defalcation in his accounts, as if the amount thereof were an arrear of land revenue due to Government.

Accountant or sureties may be proceeded against as for land revenue in arrear.

5. All Regulations and Acts now or hereafter to be in force for the

All laws for recovery of land revenue to apply to the case. recovery of arrears of land revenue due to Government, and for recovery of damages by any person wrongfully proceeded against for any such arrears, shall apply, with such changes in the forms of procedure as are necessary to make them applicable to the case, to the proceedings against and by such public accountant.

6. Repealed by Act XIV of 1870.

NOTE.—This Act is declared to be in force throughout the whole of British India, except the Scheduled Districts, by Act XV of 1874. It has been extended to the Scheduled Districts of the Punjab by Government of India Notification No. 2833 I, dated 24th December 1883 (*Gazette of India of 29th idem*).

ACT No. XVIII of 1850.

(Passed on the 4th April 1850).

An Act for the protection of Judicial Officers.

For the greater protection of Magistrates and others acting judicially, It is enacted as follows :

1. No Judge, Magistrate, Justice of the Peace, Collector, or other

No Judge or other officer acting judicially liable to be sued for any act done in discharge of his judicial duties, whether or not within the limits of his jurisdiction, if in good faith he believed he had jurisdiction. person acting judicially shall be liable to be sued in any Civil Court for any act done or ordered to be done by him in the discharge of his judicial duty, whether or not within the limits of his jurisdiction ; provided that he at the time, in good faith, believed himself to have jurisdiction to do or order the act complained of : and no officer of any Court or other person bound to execute the lawful warrants or orders of any such Judge, Magistrate, Justice of the Peace, Collector or other person acting judicially, shall be liable to be sued in any Civil Court, for the execution of any warrant or order, which he would be bound to execute, if within the jurisdiction of the person issuing the same.

NOTE.—This Act is declared to be in force throughout the whole of British India except the Scheduled Districts, by Act XV of 1874, and to be in force in certain of the Scheduled Districts of the Punjab by Notifications No. 1071, dated 21st December 1885, and No. 396, dated 7th April 1886 (*vide* Notes (a) and (b) to Act XIV of 1874).

ACT No. XIX of 1850.

(Passed on the 11th April 1850).

Concerning the Binding of Apprentices.

For better enabling children, and especially orphans and poor children brought up by public charity, to learn trades, crafts and employments, by which, when they come to full age, they may gain a livelihood. It is enacted as follows :

Preamble.

1. Any child, above the age of ten, and under the age of eighteen years,

Any child above ten and under eighteen years of age may be bound for not more than seven years, but not beyond majority if a male, or marriage if a female.

may be bound apprentice by his or her father or guardian to learn any fit trade, craft or employment, for such term as is set forth in the contract of apprenticeship, not exceeding seven years, so that it be not prolonged beyond the time when such child shall be of the full age of twenty-one years, or, in the case of a female, beyond the time of her marriage.

2. The age set forth in the contract shall be evidence of the age of the

The contract to be evidence of the age.

child, in all questions which arise as to the right of the master to the continuance of the service.

3. Any Magistrate or Justice of the Peace may act with all the powers

Magistrate or Justice to have powers of a guardian as to orphans, &c.

of a guardian under this Act, on behalf of any orphan, or poor child abandoned by its parents, or of any child convicted before him or any other Magistrate of vagrancy, or the commission of any petty offence.

NOTE.—The attention of all Magistrates in the Punjab has been called to the provisions of this Act by Punjab Government Circular No. CXX, dated 16th May 1868.

4. An orphan or poor child, brought up by any public charity, may be

A charity school child may be apprenticed by the Governors, &c.

bound apprentice by the governors, directors or managers thereof, as his or her guardians for this purpose.

5. Any such boy may be bound as an apprentice in the sea service

To the merchant marine service of India.

to any of Her Majesty's subjects, being the owner of any registered ship belonging to and trading from any port in the territories under the Government of India, which has been declared to be a registering port under Act X, 1841, to be employed in any such ship, the property of such person, commanded by a British subject, and, while so employed, to be taught the craft and duty of a seaman.

6. Repealed by Act XIV of 1870.

7. The master or commander of any ship, in which an apprentice

Master or commander to be deemed the agent of the party to whom the child is bound.

bound to the sea service shall be appointed to serve by the party to whom he is bound, shall be deemed the agent of such party for the purpose of this Act.

8. Every contract of apprenticeship shall be in writing, according to

Apprentice deed to be in writing and in form A.

the form given in the schedule (A) annexed to this Act, or to the like effect, which shall set forth the conditions agreed upon, particularly specifying the age of the apprentice, the term for which he is bound, and what he is to be taught.

9. Every such contract shall be signed by the person to whom the

Apprentice deed to be signed by the person by whom and to whom the boy is bound, and by the child when fourteen years of age.

apprentice is bound, and by the person by whom he is bound, and by the apprentice, when he is of the age of fourteen years or more at the time of binding; but, when the apprentice is bound by the governors, directors, or managers of a public charity, the signature of two of them, or of their secretary or officer, shall be sufficient on behalf of the persons binding the apprentice.

10. No such contract shall be valid unless it be executed in the manner aforesaid, nor until it has been deposited in the office of the Chief Magistrate of the place or district where it has been executed, or if the apprentice is bound to the sea service, in the office of the person appointed under Act X, 1841, to make registry of ships at the port where the apprentice is to begin his service : and the person in whose office any such contract is deposited shall give to each of the parties a copy thereof, certified under his hand, which certified copies shall be received as evidence of the contract, without formal proof of the handwriting of the Magistrate or registering officer.

11. The terms of service may be changed at any time during the apprenticeship, or the contract may be determined, with the consent of both parties to the contract or their personal representatives, and with the consent of the apprentice if he is above the age of fourteen years : provided that the changes agreed to or the termination of the contract shall be expressed in writing on the original contract, with the signature of the proper parties according to Section 8 of this Act ; and the Magistrate or registering officer shall thereupon make under his hand corresponding endorsements on the office copies, which shall be brought to him at the same time for that purpose.

12. The master of any apprentice bound under this Act may, with the consent of the person by whom he was bound, and with the consent of the apprentice, if he is above the age of fourteen years, assign such apprentice to any other person who is willing to take him for the residue of his apprenticeship, and subject to the conditions thereof ; provided that such person shall, by endorsement under his own hand on the contract, declare his acceptance of such apprentice, and acknowledge himself bound by the agreements and covenants therein mentioned, to be performed on the part of the master, and that the consent of the other parties aforesaid shall be expressed in writing on the same, and signed by them respectively : and every such assignment shall be certified on the office copies of the contract under the hand of the Magistrate or registering officer according to the form given in schedule (B) annexed to this Act.

13. Upon complaint made to any Magistrate in the said territories, by or on behalf of any apprentice bound under this Act, of refusal or neglect to provide for him, or to teach him according to the contract of apprenticeship, or of cruelty, or other ill-treatment by his master or by the agent under whom he shall have been placed by the master, the Magistrate may summon the master or his agent, as the case may be, if he shall be within his jurisdiction, to appear before him at a reasonable time, to be stated in the summons, to answer the complaint ; and at such time, whether the master or his agent be present or not (service of the summons being proved), may examine into the matter of the complaint ; and, upon proof thereof, may cancel the contract of apprenticeship, and assess upon the offender, whether he shall be the master or his agent, a reasonable sum for behoof of the apprentice, not exceeding four times the amount of the premium paid upon the binding, or

if no premium or a less premium than fifty rupees was paid, not exceeding two hundred rupees : and, if the offender shall not pay the sum so assessed, may levy the same by distress and sale of his goods and chattels, and if the offender shall not be the master but his agent, by distress and sale of the goods and chattels of the master also.

14. No contract of apprenticeship shall be cancelled, nor shall any

Contract not to be cancelled for moderate chastisement of apprentice. Cancellation of contract not to protect master from criminal liability.

master or his agent be liable to any criminal proceeding, on account of such moderate chastisement for misbehaviour, given to any apprentice by his master or the agent of his master, as may lawfully be given by a father to his child; and the provision for enabling the contract of apprenticeship to be cancelled shall not bar any criminal proceeding against any master or his agent for an assault or other offence committed against his apprentice, for which he would be liable to be punished, had it been against his child, whether or not any proceedings be taken for cancelling the contract of apprenticeship.

15. Upon complaint made to any Magistrate, by or on behalf of the

Upon complaint against apprentice, Magistrate may issue warrant and order certain specified punishments.

master of any apprentice bound to him under this Act, of any ill-behaviour of such apprentice, or if such apprentice shall have absconded, the Magistrate may issue his warrant for apprehending such apprentice and may hear and determine the complaint, and punish the offender by an order for keeping the offender, if a boy, in confinement in any debtor's prison or other suitable place, not being a criminal gaol, for any time not exceeding one month, of which one week may be in solitary confinement, during which time such allowances shall be made for his subsistence by the master or his agent as the Magistrate shall order; and if the offender be a boy of not more than fourteen years of age, may order him to be privately whipped; or, if the offender be a girl, or if in the case of any boy the Magistrate deem any such punishment unfit, he may pass an order empowering the master of the apprentice or his agent to keep the offender in close confinement in his own house, or on board the vessel to which he belongs, upon bread and water, or such other plain food as may be given without injury to the health of the apprentice, for a period not exceeding one month.

16. Upon complaint of wilful and repeated ill-behaviour on the part

On complaint of apprentice's repeated ill-behaviour, Magistrate may cancel contract and order refund of premium.

of the apprentice, and on the demand of the master, the Magistrate may order the contract of apprenticeship to be cancelled, whether or not the charge is proved; but only with the consent of the apprentice and of his father or guardian, if the charge is not proved: and such cancelling shall be with or without refund of the whole or part of any premium that may have been paid to the master on binding such apprentice as to the Magistrate seems fit on consideration of the case; and all sums so refunded shall be applied under the direction of the Magistrate for behoof of the apprentice.

17. The Magistrate may order any sum recovered for behoof of the

How the sum refunded shall be applied.

apprentice on cancelling the contract to be either laid out in binding him to another master or otherwise for his benefit, or to be paid to the person by whom any premium was paid when he was bound apprentice.

18. No Magistrate shall entertain a complaint on the part of a master

Complaint against apprentice not to be heard after one month, nor against master after three months from cause of complaint.

against an apprentice under this Act, unless it be brought within one month after the cause of complaint arose ; or, if the cause of complaint arose on board-ship during a voyage, within one month after the arrival thereof at a port or place in the said territories ; and no Magistrate shall entertain a complaint on the part of an apprentice against his master or the agent of his master under this Act, unless it be brought within three months after the cause of complaint arose ; or, if the cause of complaint arose on board ship during a voyage, within three months after the arrival thereof at a port or place in the said territories.

19. If the master of any apprentice shall die before the end of the

Contract to be determined by death of master, unless his executors offer in writing within three months to continue it.

apprenticeship, the contract of apprenticeship shall be thereby determined ; and a proportionate part, corresponding to the unexpired portion of the term, of any premium which shall have been paid to such master on the binding of the apprentice to him, shall be returned by the executors or administrators out of the estate of the deceased to the person or persons who shall have paid the same ; unless the executors or administrators of the deceased master shall continue the business in which such apprentice shall have been employed, and shall, within three months from the death of the late master, make offer in writing to keep the apprentice on the terms of the original contract ; in which case the estate of the deceased shall be discharged from all liabilities on account of such premium.

20. If such offer to keep the apprentice shall be made as aforesaid, the

Offer to be certified on the original contract and on the office copies thereof.

same shall be fully expressed and certified by the executors and administrators on the original contract of apprenticeship ; and also on the office copies thereof, by the Magistrate or registering officer ; and the apprentice shall be bound to the executors or administrators so keeping him for the remaining term of his apprenticeship.

21. Any apprentice bound under this Act, whose master shall die during

Apprentice entitled to maintenance for three months from the assets.

the apprenticeship, shall be entitled to maintenance for three months from and after the death of his master, out of the assets left by him ; provided that during such three months such apprentice shall continue to live with, and serve as an apprentice, the executors or administrators of such master, or such person as they shall appoint.

22. The apprentice of any person against whom a commission of

Bankruptcy or insolvency of master to determine the apprenticeship. Premium to be a debt against the estate.

bankruptcy shall be issued, or who shall be adjudged to have committed an act of insolvency, during the apprenticeship, shall be discharged from all obligation under the contract of apprenticeship ; and, if any premium was paid on binding him as an apprentice, he or the person by whom he was bound shall be entitled to claim the amount thereof, as a debt against the estate of the bankrupt or insolvent.

23. For the purposes of this Act, all British subjects, wherever or of

All persons in British India to be amenable to the Courts of the E. I. C. for the purposes of this Act.

whatever parents born, as well as other persons in the territories under the Government of India without the towns of Calcutta and Madras, and the town and island of Bombay, shall be amenable to the jurisdiction of the Courts and Magistrates of India.

24. An appeal shall lie from any order passed by any Magistrate without the said towns and island to the Court of Session to which such Magistrate is subordinate, provided the appeal is made within one month from the date of the order.

From order of Mofussil Magistrate, an appeal to lie to the Sessions Judge, if made within one month.

25. In this Act the words "master," "owner," "person," and the pronoun "he" shall be understood to include several persons, as well as one person, and females as well as males, and bodies corporate as well as individuals, unless there is something in the context repugnant to such construction.

Interpretation.

SCHEDULE A.

FORM OF AGREEMENT.

This Agreement made the _____ day of _____ in the year _____ between A. B. of _____ and C. D., of _____, witnesseth that the said A. B. doth this day bind E. F., a boy (or girl) of the age of _____ years completed, son (or daughter) of the said A. B. (or otherwise describing the relation in which A. B. and E. F. stand) to dwell with and serve the said C. D. as an apprentice, from this day forth for _____ years (in the case of a girl add, or until the time of her marriage, which shall first happen), during all which term the said apprentice shall duly and faithfully serve the said C. D., according to his (or her) skill and ability in all lawful business, and demean and behave himself (or herself) honestly, orderly, and obediently in all things toward the said C. D. and his (or her) family. And the said C. D., for himself, (or herself) and his (or her) executors and administrators, in consideration (of the premium or sum of _____ paid by the said A. B., to the said C. D., the receipt whereof the said C. D., hereby acknowledges, and) of the faithful service of the said E. F., doth

If there is no premium, the words between brackets may be omitted.

covenant and agree with the said A. B., his (or her) executors and administrators, that he (or she) will teach or cause to be taught the said E. F., in the best way and manner that he (or she) can, the trade (craft or employment) of a _____ during the said term; and will also, during the said term, find and allow unto the said apprentice good, wholesome and sufficient food, clothes, lodging, washing, and all other things necessary, fit, and reasonable for an apprentice: (and further, here insert any special covenants).

In witness whereof the parties have hereunto set their hands and seals, the day and year above written.

A. B.

L. S.

C. D.

L. S.

SCHEDULE B.

FORM OF ORDER OF ASSIGNMENT.

(To be endorsed on the Agreement).

Be it known to all men that on the _____ day of _____ in the year _____ personally appeared before G. H., Magistrate of _____ C. D., of _____, with E. F., his (or her) apprentice, and J. K., of _____, and desired that the agreement of apprenticeship, whereby the said E. F. was bound to the said C. D., might be assigned and made over to the said J. K., and the said G. H. having satisfied himself by personal examination of the said E. F., and by other lawful ways and means, that such assignment is for the benefit of the said E. F. and is made with the consent of (the said E. F., and of) all persons whose consent thereto by law is required, doth allow such assignment; and the contract of apprenticeship whereby

If E. F. is not above the age of fourteen years, the words between brackets may be omitted.

the said E. F. was on the _____ day of _____ in the year _____ bound to the said C. D., as an apprentice to learn the trade (craft or employment) of a _____ shall henceforth endure, unto the end of the said term, as if the said J. K. had been originally party to the said deed, and had executed the same, in the place and stead of the said C. D., and the said J. K., shall be bound, for himself (or herself) his (or her) executors or administrators, to fulfil the covenants by the said C. D. to be performed, and the said E. F. shall henceforth be bound unto the said J. K., in like manner as he (or she) was by the said agreement bound unto the said C. D.

C. D.

E. F.

J. K.

In witness whereof the said C. D., E. F., and J. K. have here unto set their hands before me the day and year above written.

G. H., Magistrate.

NOTE.—The words repealed by Act XVI of 1874 have been omitted from the text.

This act has been declared to be in force in certain of the Scheduled Districts of the Punjab but not in force in Lahoul (vide Notes (a) and (b) to Act XIV of 1874).

ACT No. XXI of 1850.*(Passed on the 11th April 1850).*

An Act for extending the principle of Section 9, Regulation VII. 1832, of the Bengal Code, throughout the territories subject to the Government of the East India Company.

Whereas it is enacted by Section 9, Regulation VII. 1832, of the

Preamble.

Bengal Code, that “ whenever in any civil suit the parties to such suit may be of different persuasions, when one party shall be of the Hindoo and the other of the Mahomedan persuasion : or where one or more of the parties to the suit shall not be either of the Mahomedan or Hindoo persuasions : the laws of those religions shall not be permitted to operate to deprive such party or parties of any property to which, but for the operation of such laws, they would have been entitled : ” and whereas it will be beneficial to extend the principle of that enactment throughout the territories subject to the Government of the East India Company, It is enacted as follows :

1. So much of any law or usage now in force within the territories

Annuls any law or usage now in force inflicting forfeiture of rights of property by reason of change of religion or loss of caste.

subject to the Government of the East India Company, as inflicts on any person forfeiture of rights or property, or may be held in any way to impair or affect any right of inheritance, by reason of his or her renouncing, or having been excluded from the communion of any religion, or being deprived of caste, shall cease to be enforced as law in the Courts of the East India Company, and in the Courts established by Royal Charter within the said territories.

NOTE.—This Act is declared to be in force throughout the whole of British India, except the Scheduled Districts, by Act XV of 1874, and to be in force in certain of the Scheduled Districts of the Punjab by Notifications No 1071, dated 21st December 1885, and No. 396, dated 7th April 1886 (*vide* Notes (a) and (b) to Act XIV of 1874).

ACT No. XXXIV of 1850.*(Passed on the 23rd August 1850).*

An Act for the better Custody of State Prisoners.

Whereas doubts have been entertained whether State prisoners, confined under Regulation III. 1818, of the Bengal

Preamble.

Code, can be lawfully detained in any fortress, gaol, or other place within the limits of the jurisdiction of any of the Supreme Courts of Judicature established by Royal Charter, and it is expedient that such doubts be removed, and the powers of the said Regulation extended to all the territories under the Government of the East India Company. It is enacted as follows:

1. The warrant of commitment of any State prisoner, under Regulation III. 1818, of the Bengal Code, may be directed

Warrant of commitment may be directed to Sheriff of Supreme Court gaol, or to the officer in charge of any gaol in which State prisoner is confined.

to the Sheriff of the gaol of any of the Supreme Courts of Judicature established by Royal Charter in the said territories, or to the commandant of any fortress, or to the officer in charge of any gaol or other place, in which it is deemed expedient that such

State prisoner be confined, in any part of the said territories ; and such warrant shall be sufficient authority for the detention of such State prisoner in the fortress, gaol or other place mentioned in the warrant.

2. Regulation III. 1818, of the Bengal Code, shall be extended

Regulation III. 1818, applicable to every Sheriff or officer having State prisoner in custody.

and applied to every Sheriff, commandant or officer, having any State prisoner in custody, under the said Regulation, as explained and extended by this Act.

3. Any State prisoner, now confined under any such warrant

State prisoners confined under the warrant of the Governor-General in Council to be held valid.

within the jurisdiction of any of the said Supreme Courts, under the warrant of the Governor-General in Council, shall be deemed to have been lawfully committed thereunto.

NOTES.—(a). This Act is declared to be in force throughout the whole of British India, except the Scheduled Districts, by Act XV of 1874. It has now been declared in force in certain of the Scheduled Districts (*vide* Notes (a) and (b) to Act XIV of 1874).

(b). Act III of 1858 extends the powers of Regulation III of 1818, relating to the arrest and confinement of persons as State prisoners, and authorizes the Governor-General in Council to order the removal of any State prisoner from one place of confinement to any other within the territories of the East India Company.

ACT No. XXXVII of 1850.

(Passed on the 1st November 1850).

For regulating Inquiries into the behaviour of Public Servants.

Whereas it is expedient to amend the law for regulating inquiries into

Preamble.

the behaviour of public servants not removable without the sanction of Government, and to make the same uniform throughout the territories under the Government of the East India Company, it is enacted as follows :

1. Repealed by Act XIV of 1870.

2. Whenever the Government shall be of opinion that there are good

When Government consider public enquiry into the conduct of any of its officers necessary, distinct articles of charge shall be drawn out.

grounds for making a formal and public inquiry into the truth of any imputation of misbehaviour by any person in the service of the East India Company not removable from his office without the sanction of the same Government, it shall cause the substance of the imputations to be drawn into distinct articles of

charge, and shall order a formal public inquiry to be made into the truth thereof.

3. The inquiry may be committed either to the Court, Board or other

The inquiry shall be committed either to the authority to which the accused is subordinate or to special Commissioners.

authority to which the person accused is subordinate, or to any other person or persons, to be specially appointed by the Government Commissioners for the purpose : notice of which commission shall be given to the person accused ten days at least before the beginning of the inquiry.

Government may nominate some person to conduct the prosecution.

4. When the Government shall think fit to conduct the prosecution, it shall nominate some person to conduct the same on its behalf.

5. When the charge shall be brought by an accuser, the Government

Charge by private accuser to be reduced to writing and verified, under penalties of perjury.

shall require the accusation to be reduced to writing, and verified by the oath or solemn affirmation of the accuser, and every person who shall wilfully and maliciously make any false accusation under the Act, upon such oath or affirmation, shall be liable to the penalties of perjury: but this enactment shall not be construed to prevent the Government from instituting any inquiry which it shall think fit, without such accusation on oath or solemn affirmation as aforesaid.

6. Where the imputations shall have been made by an accuser, and the

If private accuser prosecute, Government shall require security from him.

Government shall think fit to leave to him the conduct of the prosecution, the Government, before appointing the commission, shall require him to furnish reasonable security that he will attend and prosecute the charge thoroughly and effectually, and also will be forthcoming to answer any counter-charge or action which may be afterwards brought against him for malicious prosecution, or perjury or subornation of perjury, as the case may be.

7. At any subsequent stage of the proceedings, the Government may,

Government may abandon prosecution, allowing private accuser to continue it on giving security.

if it think fit, abandon the prosecution, and in such case may, if it think fit, on the application of the accuser, allow him to continue the prosecution, if he is desirous of so doing, on his furnishing such security as is hereinbefore mentioned.

8. The Commissioners shall have the same power of punishing con-

Power of Commissioners to punish contempts and to issue process.

tempt and obstructions to their proceedings as is given to civil and criminal Courts, and shall have the same powers for the summons of witnesses, and for compelling the production of documents, and for the discharge of their duty under the commission, and shall be entitled to the same protection as the zillah and city Judges, except that all process to cause the attendance of witnesses, or other compulsory process, shall be served through and executed by the zillah or city Judge in whose jurisdiction the witness or other person resides, on whom the process is to be served, and if he resides within Calcutta, Madras or Bombay, then through the Supreme Court of Judicature there. When the Commission has been issued to a Court, or other person or persons having power to issue such process in the exercise of their ordinary authority, they may also use all such power for the purposes of the commission.

9. All persons disobeying any lawful process, issued as aforesaid

Penalty for disobeying process issued for the purposes of the commission.

for the purposes of the commission, shall be liable to the same penalties, as if the same had issued originally from the Court or other authority through whom it is executed.

10. A copy of the articles of charge, and a list of the documents

A copy of the charge and a list of the documents and witnesses to be delivered to the accused at least three days before the inquiry.

and witnesses by which each charge is to be sustained, shall be delivered to the person accused, at least three days before the beginning of the inquiry, exclusive of the day of delivery, and the first day of the inquiry.

11. At the beginning of the inquiry, the prosecutor shall exhibit the

At the inquiry, the charge shall be openly read and the accused required to plead to each article.

articles of charge to the Commissioners, which shall be openly read, and the person accused shall thereupon be required to plead 'guilty' or 'not guilty' to each of them, which pleas shall be forthwith recorded with the articles of charge. If the person accused refuses or without reasonable cause neglects to appear to answer the charge, either personally or by his counsel or agent, he shall be taken to admit the truth of the articles of charge.

12. The prosecutor shall then be entitled to address the Commissioners

The prosecutor may then address the Commissioners on the charge.

in explanation of the articles of charge, and of the evidence by which they are to be proved: his address shall not be recorded.

13. The oral and documentary evidence for the prosecution shall then

Oral and documentary evidence for the prosecution to be then formally taken.

be exhibited: the witnesses shall be examined by or on behalf of the prosecutor, and may be cross-examined by or on behalf of the person accused. The prosecutor shall be entitled to re-examine the witnesses on any points on which they have been cross-examined, but not on any new matter, without leave of the Commissioners, who also may put such questions as they think fit.

14. If it shall appear necessary before the close of the case for the

Prosecutor may by leave call new witnesses; but in such case, accused may demand an adjournment.

prosecution, the Commissioners may in their discretion allow the prosecutor to exhibit evidence not included in the list given to the person accused, or may themselves call for new evidence, and in such case the person accused shall be entitled to have, if he demand it, an adjournment of the proceedings for three clear days before the exhibition of such new evidence, exclusive of the day of adjournment and of the day to which the proceedings are adjourned.

15. When the case for the prosecution is closed, the person accused

On close of prosecution, accused shall make his defence, which, if in writing, shall be recorded.

shall be required to make his defence, orally or in writing, as he shall prefer. If made orally, it shall not be recorded; if made in writing, it shall be recorded, after being openly read, and in that case a copy shall be given at the same time to the prosecutor.

16. The evidence for the defence shall then be exhibited, and the

Evidence for the defence shall be formally taken.

witnesses examined, who shall be liable to cross-examination and re-examination and to examination by the Commissioners, according to the like rules as the witnesses for the prosecution.

17. *Repealed by Act XII of 1876.*

18. The Commissioners, or some person appointed by them, shall

Evidence how to be taken and recorded.

take notes in English of all the oral evidence, which shall be read aloud to each witness by whom the same was given, and if necessary explained to him in the language in which it was given, and shall be recorded with the proceedings.

19. If the person accused makes only an oral defence, and exhibits no

If accused puts in a written defence, prosecutor may reply orally, and produce evidence, but not otherwise.

evidence, the inquiry shall end with his defence; if he records a written defence, or exhibits evidence, the prosecutor shall be entitled to a general oral reply on the whole case, and may also exhibit evidence to contradict any evidence exhibited for the

defence, in which case the person accused shall not be entitled to any adjournment of the proceedings, although such new evidence were not included in the list furnished to him.

20. When the Commissioners shall be of opinion that the articles of

If any charge be not sufficiently clear, the Commissioners may order it to be amended. Power to adjourn the enquiry.

charge, or any of them, are not drawn with sufficient clearness and precision, the Commissioners may, in their discretion, require the same to be amended, and may thereupon, on the application of the person accused, adjourn the inquiry for a reason-

able time. The Commissioners may also, if they think fit, adjourn the inquiry from time to time, on the application of either the prosecutor or the person accused, on the ground of the sickness or unavoidable absence of any witness, or other reasonable cause. When such application is made and refused, the Commissioners shall record the application, and their reason for refusing to comply with it.

21. After the close of the inquiry, the Commissioners shall forthwith

After close of enquiry, Commissioners to report. report to Government their proceedings under the commission, and shall send with the record thereof their opinion upon each of the articles of charge separately, with such observations as they think fit on the whole case.

22. The Government, on consideration of the report of the Commis-

Powers of Government on receipt of report.

sioners, may order them to take further evidence, or give further explanation of their opinions. It may

also order additional articles of charge to be framed, in which case the inquiry into the truth of such additional articles shall be made in the same manner as is herein directed with respect to the original charges. When special Commissioners have been appointed, the Government may also, if it thinks fit, refer the report of the Commissioners to the Court or other authority to which the person accused is subordinate, for their opinion on the case; and will finally pass such orders thereon as appear just and consistent with its powers in such cases.

23. The word 'Government' as used in this Act means the Govern-

Interpretation of the word "Government."

General in Council, the Governor or Deputy Governor of the Presidency of Fort William in Bengal, the

Governor in Council of the Presidencies of Fort St. George and Bombay, respectively, and the Lieutenant-Governor of the North-Western Provinces of Bengal, whose sanction is necessary for the removal of the person accused.

24. Nothing in this Act shall be construed to repeal any Act or Regula-

Act not to repeal any law for suspension or dismissal of certain uncovenanted officers.

tion in force for the suspension or dismissal of Principals and other Sudder Ameeris or of Deputy Magistrates or Deputy Collectors, but a commission may be issued for the trial of any charge against any of the

said officers, under this Act, in any case in which the Government shall think it expedient.

NOTE.—This section is repealed for Bengal and the North-Western Provinces by Act XVI of 1868.

25. Nothing in this Act shall be construed to affect the authority of

Nor to affect the power of Government to suspend or remove without enquiry any public servant.

Government for suspending or removing any public servant for any cause without an inquiry under this Act.

NOTE.—This Act is declared to be in force throughout the whole of British India, except the Scheduled Districts, by Act XV of 1874. It has also been extended to certain of the Scheduled Districts (*vide* Notes (a) and (b) to (Act XIV of 1874).

Act No. VIII of 1851.

(Passed on the 4th July 1851).

An Act for enabling Government to levy Tolls on Public Roads and Bridges.

Whereas it is expedient to enable Government to levy tolls upon roads and bridges. It is enacted as follows :—

Preamble.

1. Repealed by Act XIV of 1870.

2. The Governor of the Presidency of Fort William in Bengal, the

Government may cause tolls to be levied on any road or bridge made or repaired by Government, and may appoint toll-collectors.

Lieutenant-Governor of the North-Western Provinces of Bengal, the Governor of the Presidency of Fort St. George in Council, and the Governor of the Presidency of Bombay in Council, may cause such rates of toll, not exceeding the rates mentioned

in the schedule annexed to this Act, as they respectively think fit, to be levied upon any road or bridge which has been, or shall hereafter be made or repaired at the expense of the Government; and may place the collection of such tolls under the management of such persons as may appear to them proper; and all persons employed in the management and collection of such tolls shall be liable to the same responsibilities as would belong to them if employed in the collection of the land revenue.

NOTE.—It has been determined by the Government of India not to depend on tolls as the source of funds for the ordinary maintenance of imperial roads along the great trunk lines of traffic, but to provide for the necessary outlay from the general revenue.

Tolls will, however, be levied under Act VIII of 1851 when required as a means of making, or keeping in repair, a road of merely local importance or in cases where extraordinary natural obstacles have been overcome, as in roads over the western ghats in the Himalayas, and in other rugged hilly tracts.

Tolls will also continue to be taken where a heavy annual outlay is incurred for temporary works, for boat bridges, requiring periodical renewal, or for ferries at river crossings on imperial roads.

In such cases the tolls are generally cheerfully paid, and are not felt to be oppressive.

But no tolls will be levied on imperial roads passing through the open country nor on permanent bridges on such roads; so that the unobstructed benefit of these works may be open to the public.

The levy of tolls beyond what is permitted by the above rules will cease after the 30th September 1860.—(Government of India Notification No. 163, dated 27th July 1860, Public Works Department—Calcutta Gazette of 28th *idem*, page 1615).

3. In case of non-payment of any such toll on demand, the officers

For non-payment on demand, toll-collectors may seize the carriage or animal, or its burden may be seized and after 24 hours sold.

Property to be released on sufficient tender being made.

appointed to collect the same may seize any of the carriages or animals on which it is chargeable, or any part of their burden of sufficient value to defray the toll; and if any toll remains undischarged for twenty-four hours, with the cost arising from such seizure, the case shall be brought before the officer appointed to superintend the collection of the

said-toll, who may sell the property seized for discharge of the toll, and all expenses occasioned by such non-payment, seizure and sale, and cause any

balance that may remain to be returned, on demand, to the owner of the property; and the said officer, on receipt of the property, shall forthwith issue a notice that, at noon of the next day, exclusive of Sunday or any close holiday, he will sell the property by auction. Provided that if, at any time before the sale has actually begun, the person whose property has been seized shall tender the amount of all the expenses incurred, and of double the toll payable by him, the said officer shall forthwith release the property seized.

4. No toll shall be paid for the passage of troops and military stores and equipages on their march, or of police officers on duty, or of any person or property in their custody; but no other exemption from payment of the tolls levied under this Act shall be allowed.

Note.—See the Army Act, 1881, Section 143.

5. All police officers shall be bound to assist the toll-collectors, when required, in the execution of this Act; and, for that purpose, shall have the same power which they have in the exercise of their common police duties.

6. Every person other than the persons appointed to collect the tolls under this Act, who shall levy or demand any tolls on any public road or bridge, or for passing through any bazar situated thereon, and also every person who shall unlawfully and extortionately demand, or take any other or higher toll than the lawful toll, or under color of this Act seize or sell any property, knowing such seizure or sale to be unlawful, or in any manner unlawfully extort money or any valuable thing from any person under colour of this Act, shall be liable, on conviction before a Magistrate, to imprisonment for any term not exceeding six calendar months, or to fine not exceeding two hundred rupees, any part of which fine may be awarded by the Magistrate to the person aggrieved: but this remedy shall not be deemed to bar or affect his right to have redress by suit in the Civil Court.

7. A table of the tolls authorized to be taken at any toll-gate or station shall be put up in a conspicuous place near such gate or station, legibly written or printed in English words and figures, and also in those of the vernacular language of the district, to which shall be annexed, written or printed in like manner, a statement of the penalties for refusing to pay the tolls and for taking any unlawful toll.

8. The tolls levied under this Act shall be deemed public revenue; but the net proceeds thereof shall be applied wholly to the construction, repair and maintenance of roads and bridges within the presidency in which they are levied.

SCHEDULE.

	Rs.	A	P.
On every four-wheeled Carriage on Springs	2	0	0
On every two-wheeled Carriage on Springs (except Native Hackeries)	1	0	0
On every Native Hackery on Springs	0	2	0
On every four-wheeled Carriage without Springs	0	6	0
On every two-wheeled Carriage without Springs	0	4	0
On every Cart and Hackery not on springs, and having wheels of less diameter than three feet six inches, and tyres less in breadth than three inches	0	8	0
On every Cart and Hackery not on springs, and not having wheels of less diameter than three feet six inches, and tyres less in breadth than three inches	0	2	0
Buffaloes or Bullocks, per head	0	0	6
On every Elephant	1	0	0
On every Camel	0	4	0

SCHEDULE—(contd.)

	Rs.	A.	P.
On every Horse	0	1	0
On every Tattu	0	0	6
On every score of Sheep or Goats	0	2	0
On every herd of Swine, per hundred	0	4	0
On every Mule	0	0	3
On every Ass	0	0	2
On every Palanquin or Tonjon with bearers	1	0	0
On every Palna or small native Palanquin with bearers	0	4	0
On every native Duli with bearers	0	2	0
On every person carrying a load for hire	0	0	2

N.B.—Animals drawing any vehicle for which toll can be demanded, are not to be also charged with toll.

Notes.—(a). The above schedule is no longer in force in places to which Act XV of 1864 has been extended (see Act XV of 1864, Section 1).

Act VIII of 1851 has been declared to be in force in certain of the Scheduled Districts of the Punjab (vide Notes (a) and (b) to Act XIV of 1874).

(b). The Governor-General in Council is of opinion that the general provisions of Act VIII of 1851 must be held applicable to the province under you, as well as to all other parts of India.—(*Extract para. 19 of No. 4035, dated 21st August 1857, from Secretary to Government of India, Public Works Department, to Chief Commissioner of the Punjab*).

This extract may be taken as an authority for the introduction of Act VIII of 1851 in the Punjab.—(*Barkley's Punjab Non-Regulation Law, page 380*).

(c). The Lieutenant-Governor has extended the provisions of Acts VIII of 1851 and XV of 1864 to the following roads, and has authorized the levy of tolls:

The Simla and Kalka cart road, near Dharmpur.—(No. 5328, dated 17th January 1865, —*Punjab Gazette of 18th idem*, and No. 627, dated 24th March 1871—*Punjab Gazette of 30th idem*).

Under the provisions of Act VIII of 1851 and Act XV of 1864 (for enabling Government to levy tolls on public roads and bridges) the Hon'ble the Lieutenant-Governor is pleased to authorize the levy of the following tolls on two-wheeled carriages on the Simla and Kalka cart road, near Dharmpur, in modification of the rate fixed by *Punjab Government Gazette Notification No. 627, dated 24th March 1871, for carriages of this description, viz:*

Two-wheeled Carriages with two horses—One rupee.

Two-wheeled Carriages with one horse—Eight annas.

No. 2638, dated 23rd November 1883—*Punjab Gazette of 29th idem, Part I, page 712*).

The old road from Kalka to Simla.—(No. 6155, dated 21st April 1866—*Punjab Gazette of 26th idem*; and No. 1473, dated 25th August 1871—*Punjab Gazette of 31st idem*).

The Pathankot and Dalhousie road.—(No. 2282, dated 27th August 1868—*Punjab Gazette of 10th September 1868*; and No. 357, dated 3rd February 1870—*Punjab Gazette of 10th idem*).

(d). The levy of tolls has also been authorised at the Markanda bridge in the Umballa district on the road from Umballa to Karnal and to Jagadhri.—(No. 1387½, dated 30th May 1876—*Punjab Gazette of 1st June 1876*).

(e). Also at Bamlada, Gurdaspur district, on the Pathankot and Dalhousie road.—(No. 2351, dated 29th July 1878—*Punjab Gazette of 1st August, 1878*. See No. 839, dated 13th March 1879—*Punjab Gazette of 20th idem*).

(f). Also at the sub-way of the P. N. S. Railway over the Ravi river.—(No. 2011, dated 21st June 1879—*Punjab Gazette of 26th idem*).

(g). Under the provisions of Section 2 of Act VIII of 1851, the Hon'ble the Lieutenant-Governor has been pleased to sanction the removal of the toll-bar established by Public Works Department Notification No. 2282, dated 27th August 1868, at Mamul near Bakloh, on the Pathankot and Dalhousie Road, in the Gurdaspur District, to Duncra in the same district, where the road from Nurpur crosses the regular road to Dalhousie, and, under the provisions of Act XV of 1864, to authorise the levy of the rates of toll detailed in the subjoined schedule:—

(The schedule is omitted as it corresponds with the schedule attached to Act XV of 1864, except with regard to the charge on camels which is as follows:—

	Rs.	A.	P.
On every camel, if laden	0	4	0
Ditto if not laden	0	2	0

(No. 404, dated 12th February 1884—*Punjab Gazette of 14th idem, Part I, page 153*).

(h). Under the provisions of Section 3 of Act XV of 1864, the Hon'ble the Lieutenant-Governor is pleased to extend the provisions of Act VIII of 1851 and Act XV of 1864 (for enabling Government to levy tolls on public roads and bridges) to the undermentioned bridges in the Hazara District, and to authorize the levy of tolls thereat in accordance with the subjoined schedule, with effect from the 21st of April 1884 :—

- (1). The Kohala bridge, on the River Jhelum, on the road from Murree to Srinagar, in the Kashmir territory.
- (2). The Garhi Habibulla bridge, on the river Kunhar, on the road from Abbottabad to Garhi Habibulla.

Schedule of rates to be levied.

(Omitted, as it corresponds with the schedule to Act XV of 1864).

(No. 1023, dated 10th April 1884—*Punjab Gazette of 17th idem, Part I, page 506*).

The Hon'ble the Lieutenant-Governor is pleased to sanction the following reductions in the rates of toll to be levied at the Kohala and Garhi Habibulla bridges in the Hazara District, as published in *Punjab Government Gazette Notification No. 1023, dated 10th April 1884*.

The reductions will have effect from the 20th June 1884.

Foot passengers, being *bonâ fide* residents of the villages of Kohala and Garhi Habibullah, from three pies to one pie per head.

Cattle being the property of the villagers of Kohala and Garhi Habibulla, and taken across the river for *bonâ fide* agricultural purposes, from six pies per head to three pies.

(No. 1889, dated 17th June 1884—*Punjab Gazette of 19th idem, Part I, page 747*).

So much of Punjab Government Notification No. 1023, dated the 10th of April 1884, as extended the provisions of Act VIII of 1851 and Act XV of 1864 to the Garhi Habibulla Bridge on the River Kunhar, and authorized the levy of tolls thereat, is hereby cancelled.

(No. 432, dated 17th February 1885—*Punjab Gazette of 9th idem, Part I, page 102*).

(i). In exercise of the powers vested in him by Section 3 of Act XV of 1864 (an Act to amend Act VIII of 1851, for enabling Government to levy tolls on public roads and bridges), the Hon'ble the Lieutenant-Governor is pleased to extend, and hereby extends, the provisions of Act VIII of 1851 and Act XV of 1864 to the overway of the Ferozepore Railway bridge, and authorizes from the date of the publication of this Notification the levy of the following tolls :—

		<i>Laden or ridden.</i>		<i>Unladen.</i>	
		Rs.	A. P.	Rs.	A. P.
Four-wheeled carriage, each	...	2	0 0	2	0 0
Two-wheeled do. do.	...	1	0 0	1	0 0
Ekka, each	...	0	4 0	0	4 0
Cart not on springs drawn by eight bullocks, buffaloes, horses, ponies or mules, each	...	1	8 0	0	8 0
Do. ditto six ditto	...	0	12 0	0	6 0
Do. ditto four ditto	...	0	8 0	0	4 0
Do. ditto two ditto	...	0	4 0	0	2 0
Elephants, per head	...	1	8 0	1	8 0
Camels, ditto	...	0	4 0	0	2 0
Buffaloes or bullocks, per head	...	0	1 0	0	0 6
On every horse	...	0	1 6	0	0 9
Ditto tattoo or mule	...	0	0 9	0	0 6
Ditto ass	...	0	0 6	0	0 3
Ditto sheep, goat, or pig	...	0	0 1	0	0 1
Ditto palankeen, dooly, palna, or tonjon with eight bearers	...	1	0 0	1	0 0
Ditto ditto ditto with six ditto	...	0	12 0	0	12 0
Ditto ditto ditto with four ditto	...	0	8 0	0	8 0
Ditto ditto ditto with two ditto	...	0	4 0	0	4 0
Ditto foot passenger	...	0	0 3	0	0 3

N.B.—Animals drawing any vehicle for which toll can be demanded are not to be also charged with toll.

(No. 338† S., dated 12th October 1887—*Punjab Gazette of 20th idem, Part I, page 559*).

(j). Whereas doubts have been expressed as to whether Act VIII of 1851 is in force on certain of the roads or bridges, as the case may be, mentioned in the first schedule appended to this Notification, and whereas certain mistakes and omissions have been discovered in the Notifications mentioned in the second schedule hereto appended, His Honor the Lieutenant-Governor (without in any way implying or admitting that Acts VIII of 1851 and XV of 1864

have not heretofore been validly extended to the roads or bridges in question) is pleased to direct that the following Notification be published in supersession of the Notifications mentioned in the second schedule hereto appended, viz.—

In exercise of the powers vested in him by Section 3 of Act XV of 1864 (an Act to amend Act VIII of 1851, for enabling Government to levy tolls on public roads and bridges), the Hon'ble the Lieutenant-Governor is pleased to extend, and hereby extends, the provisions of Act VIII of 1851 and Act XV of 1864 to the roads or bridges, as the case may be, mentioned in column 1 of the first schedule hereto annexed, and authorizes from the date of the publication of this Notification the levy of tolls at the places mentioned in column 2 of the said schedule in accordance with the rates prescribed in column 3 thereof.

SCHEDULE I.

1	2	3
Name of road or bridge.	Place at which tolls are leviable.	Rates of tolls.
1. RAWALPINDI AND MURREE ROAD.	AT THE 17TH MILE AND AT SALGRAON BRIDGE.	Rs. A. P.
		On every four-wheeled carriage... 2 0 0
		Ditto two-wheeled ditto ... 1 0 0
		Ditto ekka ... 0 4 0
		Ditto hackery on springs ... 0 2 0
		Ditto cart and hackery not on springs drawn by eight bullocks, buffaloes, horses, ponies, asses, or mules, if laden ... 1 8 0
		Ditto ditto ditto, if not laden... 0 8 0
		Ditto cart or hackery drawn by six bullocks, buffaloes, horses, ponies, asses, or mules, if laden ... 0 12 0
		Ditto ditto ditto, if not laden... 0 6 0
		Ditto cart or hackery drawn by four bullocks, buffaloes, horses, ponies, asses, or mules, if laden ... 0 8 0
		Ditto ditto ditto, if not laden... 0 4 0
		Ditto cart and hackery drawn by two bullocks, buffaloes, horses, ponies, asses, or mules, if laden ... 0 4 0
		Ditto ditto ditto, if not laden... 0 2 0
		Buffaloes or bullocks per head, if laden ... 0 1 0
		Ditto ditto if not laden ... 0 0 6
		On every elephant ... 1 8 0
		Ditto camel, if laden ... 0 8 0
		Ditto do. if not laden ... 0 4 0
		Ditto horse, if laden or ridden ... 0 1 6
		Ditto do. unladen or led ... 0 0 9
		Ditto tattoo or mule, if laden or ridden ... 0 0 9
		Ditto ditto if unladen or led ... 0 0 6
		Ditto ass, if laden or ridden... 0 0 6
		Ditto do. unladen or led ... 0 0 3
		Ditto sheep, or goat or pig ... 0 0 1
		Ditto palanquin, dooly, palna, or tonjon with eight bearers ... 1 0 0
		Ditto ditto ditto with six bearers ... 0 12 0
		Ditto ditto ditto with four do. ... 0 8 0
		Ditto ditto ditto with two do. ... 0 4 0
		Ditto foot passenger ... 0 0 3

N. B.—Animals drawing any vehicle for which toll can be demanded are not to be also charged with toll.

SCHEDULE I.—continued.

1	2	3
Name of road or bridge.	Place at which tolls are leviable.	Rates of tolls.
		<div> <div>Laden or ridden. Rs. A. P.</div> <div>Unladen. Rs. A. P.</div> </div>
2. ATTOCK RAILWAY BRIDGE.	ON THE SUB-WAY	Four-wheeled carriage, each... 2 0 0 2 0 0 Two-wheeled do. do. ... 1 0 0 1 0 0 Ekka, each ... 0 4 0 0 4 0 Cart not on springs drawn by eight bullocks, buffaloes, horses, ponies, or mules each 1 8 0 0 8 0 Ditto ditto six ditto 0 12 0 0 6 0 Ditto ditto four ditto 0 8 0 0 4 0 Ditto ditto two ditto 0 4 0 0 2 0 Elephants, per head ... 1 8 0 1 8 0 Camels, do. ... 0 4 0 0 2 0 Buffaloes or bullocks, per head 0 1 0 0 0 6 On every horse ... 0 1 6 0 0 9 Ditto tattoo or mule ... 0 0 9 0 0 6 Ditto ass ... 0 0 6 0 0 3 Ditto sheep, goat or pig ... 0 0 1 0 0 1 Ditto palanquin, dooly, palna, or tonjon with eight bearers 1 0 0 1 0 0 Ditto do. six do. ... 0 12 0 0 12 0 Ditto do. four do. ... 0 8 0 0 8 0 Ditto do. two do. ... 0 4 0 0 4 0 Ditto foot passengers ... 0 0 3 0 0 3
		N. B.—Animals drawing any vehicle for which toll can be demanded are not to be also charged with toll.
		Buffaloes or bullocks, per head 0 1 0 0 0 6 On every horse ... 0 1 6 0 0 9 Ditto tattoo or mule ... 0 0 9 0 0 6 Ditto ass ... 0 0 6 0 0 3 Ditto sheep, goat, or pig... 0 0 1 0 0 1 Ditto palanquin, dooly, palna, or tonjon with eight bearers 1 0 0 1 0 0 Ditto ditto ditto six do. 0 12 0 0 12 0 Ditto ditto ditto four do. 0 8 0 0 8 0 Ditto ditto ditto two do. 0 4 0 0 4 0 Ditto foot passenger ... 0 0 3 0 0 3
		On every four-wheeled carriage ... 1 0 0 Ditto two-wheeled ... 0 8 0 Ditto ekka carrying 1 or more passen- gers or goods ... 0 2 0 Ditto ditto driver only ... 0 1 0 Ditto cart and hackery not on springs drawn by eight bullocks, buffaloes, horses, ponies, asses, or mules, if laden ... 1 0 0 Ditto ditto, if not laden ... 0 8 0 Ditto cart and hackery drawn by six bullocks, buffaloes, horses, po- nies, asses, or mules, if laden 0 12 0 Ditto ditto if not laden ... 0 6 0 Ditto cart and hackery drawn by four bullocks, buffaloes, horses, po- nies, asses, or mules, if laden 0 8 0 Ditto ditto if not laden ... 0 4 0
4. DELHI AND RE- WARI ROAD.	PYLADPUR IN THE DELHI DISTRICT, AND ALSO AT SIKANDARPUR BRIDGE IN THE GURGAON DIS- TRICT.	

SCHEDULE I.—concluded.

1	2	3
Name of road or bridge.	Place at which tolls are leviable.	Rates of tolls.
		<i>Unladen.</i>
		Rs. A. P.
		On every cart and hackery drawn by two bullocks, buffaloes, horses, ponies, asses, or mules, if laden ... 0 4 0
		Ditto ditto, if not laden ... 0 2 0
		Buffaloes or bullocks per head, if laden ... 0 0 9
		Ditto ditto, if not laden ... 0 0 6
		On every camel, if laden ... 0 2 0
		Ditto ditto, if not laden ... 0 1 0
		Ditto horse, if laden or ridden ... 0 1 0
		Ditto ditto, if unladen or led ... 0 0 9
		Ditto tattoo or mule, if laden or ridden ... 0 0 9
		Ditto ditto, if unladen or led ... 0 0 6
		Ditto ass, if laden ... 0 0 6
		Ditto do. if unladen or led ... 0 0 3
4. DELHI AND REWARI ROAD.	PYLADPUR IN THE DELHI DISTRICT AND ALSO AT SIKANDARPUR BRIDGE IN THE GURGAON DISTRICT.	
		<i>N.B.</i> —Animals drawing any vehicle for which tolls can be demanded are not to be also charged with toll.

SCHEDULE II.

- Public Works Department Notification No. 167, dated 5th May 1865.
- Civil Department Notification No. 832, dated 11th April 1883.
- Ditto ditto No. 2585, dated 20th November 1883.
- Ditto ditto No. 564, dated 7th March 1877.
- Public Works Department Notification dated 25th January 1870.

(No. 1774, dated 18th October 1887— Punjab Gazette of 20th idem, Part I, page 559).

ACT No. VIII of 1852.

(Passed on the 6th February 1852).

An Act for remunerating the Sheriffs of Calcutta, Madras and Bombay for the execution of Mofussil process under Act XXIII of 1840.

For making better provision for the Sheriffs of Calcutta, Madras and Bombay, in remuneration for the execution of legal process issued by Courts out of the said towns respectively, It is enacted as follows :

- Preamble.
- The several Sudder Courts of the Presidency of Fort William in Bengal, and the Sudder Courts of the Madras and Bombay Presidencies respectively, shall make, and from time to time amend, a table of reasonable fees, to be taken on account of the execution by the Sheriff in such presidency of any legal process
- Sudder Courts to establish tables of fees to be taken by Sheriff for execution of process from mofussil Courts. Such fees to be prepaid.

issued by any Court, Judge, or Magistrate, beyond the jurisdiction of the several Supreme Courts established by Royal Charter in Calcutta, Madras and Bombay, and of the sums to be allowed for costs of advertisements or other notifications of sales of property, according to the amount of the decrees to be satisfied by such sales, which fees and sums shall be payable by the party applying for the process before it is sent to the Sheriff for execution, and shall be deemed costs in the cause.

2. The said table of fees and sums, when made or amended as afore-

Such tables to be submitted for approval by the Local Government.

said, shall be submitted by the Sudder Court of the Lower Provinces of the Presidency of Fort William to the Governor of Bengal, and by the Sudder Court of the North-Western Provinces of the said Presidency to the Lieutenant-Governor of those Provinces, and by the Sudder Courts of Madras and Bombay respectively to the Governor in Council of the Presidencies in which such Courts respectively have jurisdiction, for his approval; and the said table of fees and sums shall have full force and effect, and the fees and sums therein mentioned may be lawfully demanded and taken, from and after the approval thereof by the said Governor, Lieutenant-Governor, or Governor in Council, as the case may be.

3. Every such Court, Judge and Magistrate, issuing process as afore-

Account to be kept of such fees by the Court issuing process.

said, shall cause a separate account to be kept of the amount of all fees and sums so paid, and shall from time to time, as directed by Government, cause the amount thereof to be paid into the local treasury.

4. The Government of each of the presidencies and provinces afore-

Government to pay over to the Sheriff the amount of such fees half-yearly.

said shall twice in each year account for and pay over to the Sheriff, for the time being, the amount of fees and sums so paid, after deducting all necessary expenses of receiving and keeping account thereof, and remitting the net proceeds thereof to Calcutta, Madras, or Bombay, as the case may be; or, where the amount has accrued in the shrievalty of more than one Sheriff, shall apportion the sum paid accordingly between the Sheriff for the time being, and the then late Sheriff.

5. The said Governments respectively may compound with the Sheriff

Or may compound with the Sheriff for fixed monthly payment.

for a monthly payment to be made to him instead of such fees and sums, and during such composition may appropriate the said fees and sums to the purposes of Government.

6. Over and above such fees and sums, or any such monthly payment

Sheriff to receive also two and a half per cent. on value of any property sold by him in execution.

received instead of such fees and sums, the Sheriff shall be entitled to a fee after the rate of two rupees eight annas for each hundred rupees of the value of any goods or property taken and sold by him in execution of any process issued by any Court, Judge or Magistrate beyond the local jurisdiction of the said Supreme Courts, which fee shall be taken to cover all expenses connected with the seizure and sale, except the expense of advertisements.

7. No fee estimated upon the amount of the sum for which any person

No fees but those fixed by the Sudder Court to be taken for execution against the person.

is taken in execution, shall be payable to the Sheriffs of Calcutta, Madras, or Bombay, or any of their bailiffs for taking the body of any person in execution on any process issued by any Court, Judge, or

Magistrate out of the local jurisdiction of the said Supreme Courts respectively; but instead thereof, such fees shall be payable to the Sheriff for taking the body of any person in execution of any such process as shall be settled, from time to time, by the Sudder Court as aforesaid.

8. If any person taken in execution on any such process shall escape out of the legal custody of the Sheriff, the Sheriff shall not be liable to an action of debt for such escape, but shall be liable only to an action upon the case for damages in consequence of such escape sustained by the person or persons at whose suit the prisoner was taken.

NOTE.—This Act is applicable to the Punjab, as regards processes issued out of Courts in the Punjab for service in Calcutta, Madras or Bombay.

ACT No. XXX of 1852.

(Passed on the 16th July 1852).

An Act for the Naturalization of Aliens.

Whereas it is expedient to provide for the naturalization of aliens in the territories under the Government of the East India Company, It is enacted as follows :

Preamble.

1. Any person, whilst actually residing in any part of the territories under the Government of the East India Company, may present a memorial to Government, praying that the privileges of naturalization may be conferred upon him.

Any actual resident may petition for naturalization.

2. Such memorial shall state, to the best of the knowledge and belief of the memorialist, his age, place of birth, place of residence, profession, trade or occupation, the length of time during which he has resided within the said territories, that he is settled in the said territories or is residing within the same with intent to settle therein, and any other particulars which the Government may require to be stated therein, and such memorial shall be in writing and signed by the memorialist, and accompanied by an affidavit sworn by him, verifying the truth of the statements contained therein.

Petition what to contain.

3. The memorial shall be considered by the Government to whom it shall be presented, who shall inquire into the circumstances of the case, and may require such evidence either by affidavit or otherwise as they may deem proper, in addition to the before-mentioned affidavit of the memorialist, to prove the truth of the statements contained in such memorial.

Government may require further evidence.

4. The Government may, if they shall think fit, issue a certificate in writing, reciting such of the contents of the memorial as they may consider to be true and material, and granting to the memorialist all the rights, privileges and capacities of naturalization under this Act, except such rights, privileges or capacities, if any, as may be especially excepted in such certificate.

Or issue certificate granting the right of naturalization with or without limitation.

5. The certificate shall be delivered to the memorialist ; and a copy

Certificate to be delivered to memorialist and duplicate thereof filed.

or duplicate thereof, together with the memorial upon which the same shall be obtained, and any affidavit which may accompany such memorial or be produced in support thereof, shall be filed by the Secretary to the Government, or such other officer as the Government may direct ; and such Secretary or officer shall keep an alphabetical list of all persons who may be naturalized by such Government.

6. If any material statement contained in such memorial shall be

Certificate may be cancelled if memorial be found to have contained any material false statement.

false, the Government may, if they think fit, by an order in writing, declare the certificate issued upon such memorial to be null and void to all intents and purposes, except such purposes, if any, as may be specially excepted in such order ; and from and after such order all the rights, privileges and capacities derived through such certificate shall cease to exist.

7. Such fees shall be payable in respect of the proceedings hereby

Government may fix fees for certificate, &c. authorized as shall be fixed by the Government.

8. Upon obtaining such certificate, and taking and subscribing the

Certificate to entitle memorialist to what privileges.

oath as hereinafter prescribed, the memorialist shall, within the said territories under the Government of the East India Company, be deemed a natural born subject of Her Majesty as if he had been born within the said territories, and shall be entitled within the said territories to all the rights, privileges and capacities of a subject of Her Majesty born within the said territories, except such rights, privileges and capacities, if any, as may be specially excepted in such certificate.

9. *Repealed by Act XVI of 1874.*

10. Within sixty days from the day of the date of such certificate the

Memorialist to subscribe an oath within sixty days.

memorialist named in such certificate shall take and subscribe the oath contained in the schedule annexed to this Act.

11. Such oath, as well as any other oath or affidavit required by this

Oath to be administered and certificate thereof be given by any Magistrate or Justice. Duplicate of both to be forwarded to Government.

Act, may be administered by any Magistrate or Justice of the Peace within the limits of his jurisdiction, or by any other person to be appointed for that purpose by Government, and the person who shall administer the oath mentioned in the schedule to this Act annexed shall grant to the memorialist a certificate in writing of his having taken and subscribed such oath, and of the date of his taking and subscribing the same, and shall forward to the Government the oath so taken and subscribed, together with a duplicate of such certificate, which oath and duplicate shall be filed and kept with the memorial.

12. The word "Government" in this Act shall be deemed to mean the

Interprets the terms "Government" and "Magistrate."

person or persons for the time being lawfully entitled to administer the executive Government in that part of the said territories in which the memorialist shall reside at the time of presenting such memorial. The word "Magistrate" shall include any person lawfully exercising the powers of a Magistrate, and words denoting the masculine gender shall include the feminine.

13. In every case in which the word "oath" or "affidavit" is used Interprets the terms in this Act, an affirmation to the same effect as the "oath" and "affidavit." oath or affidavit required shall be sufficient in cases where the person required to make such oath or affidavit shall be a person allowed by law to affirm in civil cases, and in every such case such affirmation shall be made before the person authorized to administer the oath, and the word "oath" or "affidavit" wherever used in this Act shall include such affirmation.

NOTE.—This Act is declared to be in force throughout the whole of British India, except the Scheduled Districts, by Act XV of 1874. It has also been declared to be in force in certain of the Scheduled Districts (*vide* Notes (a) and (b) to Act XIV of 1874).

SCHEDULE.

OATH.

I, A. B., of (here state the description of the party) do swear (or being one of the persons allowed by law to affirm in civil cases, do affirm) that I will be faithful and bear true allegiance to the Sovereign of the United Kingdom of Great Britain and Ireland, and of these territories.

(Signed) A. B.

ACT No. II of 1853.

(Passed on the 4th February 1853).

An Act to remove doubts as to the liability of all subjects of Her Majesty to the same jurisdictions as Natives in respect of public and police duties and public charges incident to the holders of land or their local agents or managers.

Whereas, by virtue of Act No. IV. of 1837, it is lawful for any subject of Her Majesty to acquire and hold in perpetuity, or for any term of years, property in land or in any emoluments issuing out of land, in any part of the territories under the Government of the East India Company; and whereas doubts have arisen whether all subjects of Her Majesty, acquiring or holding property in land or in any emoluments issuing out of land, or acting as local agents or managers of such property, are subject to the same jurisdictions as natives for enforcing the discharge of public and police duties incident to the holding of such property, or for the enforcement of public charges and assessments upon or in respect thereof; and whereas it is just and reasonable that all persons who may think fit to hold such property, or to be the local agents or managers thereof, should be liable to the public burthens and duties incident thereto, and, in case of neglect or refusal to discharge the same, should be subject to the same jurisdictions as natives; It is therefore declared and enacted as follows:

1. No person whatever, being the owner, holder, or farmer of any property in land or in any emoluments issuing out of land, in any part of the said territories, whether in perpetuity or for a term, or being a local agent or manager of any such property, is by reason of his place of birth, or by reason of his descent, exempt from any public charge or assessment, or from any duty connected with the police, or with the salt or opium revenue, or from any duty whatsoever of a public nature, to which he would otherwise be subject, as the owner or holder of such property, or as a local agent or manager thereof.

2. For the non-payment of any such public charge or assessment, or

Every person, whatever his place of birth or his descent, subject to the same laws as natives.

for the breach of any such duty as aforesaid, or for any neglect or misconduct in the discharge thereof, every person, whatever may have been his place of birth or his descent, shall be subject to the same laws, regulations, and procedure, and to the same jurisdictions, as if he were a native of the said territories.

NOTE.—This Act is declared to be in force throughout the whole of British India, except the Scheduled Districts, by Act XV of 1874. It has also been declared to be in force in certain of the Scheduled Districts. (See Notes (a) and (b) to Act XIV of 1874).

ACT No. XIX of 1853.

(Passed on the 2nd December 1853).

An Act to amend the Law of Evidence in the Civil Courts of the East India Company in the Bengal Presidency.

Whereas the law of evidence administered by the Civil Courts of the Presidency of Fort William in Bengal, and the rules for the attendance and examination of witnesses, and the production of documents in such Courts, require amendment ; It is enacted as follows :—

* * * * *

26. Any person, whether a party to a suit or not, to whom a sum-

Witness neglecting or refusing to obey summons duly served to be liable in a civil action for damages sustained by the party issuing the summons.

mons to attend and give evidence or produce a document shall be personally delivered, and who shall without lawful excuse neglect or refuse to obey such summons, or who shall be proved to have absconded or kept out of the way to avoid being served with such summons, and any person who being in Court and upon being required by the Court to give evidence or produce a document in his possession shall without lawful excuse refuse to give evidence or sign his deposition, or to produce a document in his possession, shall, in addition to any proceedings under this Act, be liable to the party at whose request the summons shall have been issued, or at whose instance he shall be required to give evidence or produce the document, for all damages which he may sustain in consequence of such neglect or refusal, or of such absconding or keeping out of the way as aforesaid, to be recovered in a civil action.

* * * * *

NOTE.—The whole of this Act; except Sections 19 and 26, is repealed by Act X of 1861, as regards suits or proceedings under Act VIII of 1859 ; and Section 19 has been repealed by Act 1 of 1872.

The above unrepealed section has been declared to be in force in certain of the Scheduled Districts of the Punjab, but not in Lahul, vide Notes (a) and (b) to Act XIV of 1874.

ACT No. XXVI of 1854.*(Passed on the 11th November 1854).*

An Act for making better provision for the Education of Male Minors subject to the superintendence of the Court of Wards.

Whereas the existing laws are found insufficient to ensure the proper education of male minors subject to the superintendence of the Court of Wards, and it is expedient to make further and better provision for the education of such persons ; It is enacted as follows :—

1. The general superintendence and control of the education of every male minor, whose property has been, or shall be brought under the management of the Court of Wards, in and for any part of the Presidency of Fort William, by virtue of any Act or Regulation which now is, or hereafter shall be in force, is hereby vested in the Collector of Revenue, acting under the said Court of Wards, in the zillah or district wherein such minor's estate is situate ; or, if such minor is possessed of immoveable property in different districts, in such one of the Collectors of Revenue of such districts as the said Court of Wards shall select.

2. It shall be lawful for every Collector of Revenue, in whom the superintendence of the education of any minor is vested by this Act, to direct that such minor shall reside, either with or without his guardian, at the sudder station of the district, or at any other place within the said presidency, and shall attend, for the purposes of education, such school or college as to the said Collector may seem expedient ; and to make such provision as may be necessary for the proper care and suitable maintenance of the said minor whilst attending such school or college.

3. If it shall appear to the Collector inexpedient to place any such minor at a school or college, he shall, if the proceeds of the estate are sufficient for that purpose, cause such minor to be educated by a private tutor, properly qualified, either at the family residence of such minor, or at the sudder station, or elsewhere within the said presidency ; and in that case also the Collector shall have power to determine from time to time the place of residence of such minor, and to make such provision as may be necessary for his proper tuition and maintenance during the period of his education.

4. All charges and expenses which may be incurred on account of any male minor ward under the provisions of this Act, for college or school fees, or for other charges of tuition or education, or by reason of his residence in any place other than his own home or otherwise, shall be defrayed from the profits of his estate in the same manner as other expenses incurred under the authority or with the sanction of the Court of Wards.

5. It shall be lawful for the Court of Wards, on the application of a Collector, to remove from office any guardian who shall neglect or refuse to obey, or shall evade compliance with, any orders passed, or directions given by such Collector under the provisions of this Act, and to cause a new guardian to be appointed in his place, whether the person so removed shall have been first

Court of Wards to have power to remove guardians for disobedience to orders passed by Collector under this Act.

invested with the guardianship of the minor upon the nomination of a Collector acting under the Court of Wards, or by a testamentary appointment confirmed by the Court of Wards: and if, in any such case, the guardian to be removed shall be also the manager of the minor's estate, it shall be lawful for the Court of Wards at its discretion, either to remove him from both the said offices, or to continue him in that of manager only.

6. The guardian so removed shall, notwithstanding his removal, continue liable to account to the Collector for his receipts and disbursements during the period of his guardianship: and every guardian appointed in the place of a guardian so removed shall be chosen in the same way, and shall have the same rights and powers, and be subject to the same responsibilities, as persons originally appointed to be guardians of minors by a Collector of Revenue acting under the Court of Wards.

Continued liability of guardian removed; powers and responsibilities of new guardian.

7. The right to the custody of the person of any male minor, whose

The right to the custody of the person of a male minor to be vested in guardian appointed by the Court of Wards, or, failing him, in the Collector.

property is under the management of the Court of Wards, is hereby vested in the person appointed, with the sanction of the Court of Wards, either originally or upon the removal of a former guardian, to be the guardian of such minor, or, in the absence of any such person, in the Collector of Revenue having the superintendence of the education of such minor under the provisions of this Act.

8. All orders and proceedings of a Collector under the provisions of this

Appeal from the orders of a Collector to lie to Commissioner of Revenue acting as Court of Wards.

Act shall be subject to the revision of the Court of Wards, and every person aggrieved by any such order or proceeding may prefer an appeal therefrom to the Commissioner of Revenue acting as a Court of Wards in and for the division to which such Collector belongs.

NOTES.—(a). The provisions of this Act are declared applicable to the civil Court or to the Collector, as the case may be, in respect to minors and guardians under Act XL of 1858, so far as is consistent with the provisions contained in the latter Act.—(Act XL of 1858, Section 25).

(b). Rules for the care and education of persons subject to the Court of Wards have been made under Section 38 of Act IV of 1872, *q.v.*

(c). The whole Act, so far as it applies to the North-Western Provinces, is repealed by Act XIX of 1873.

(d). The Act has been declared to be in force in certain of the Scheduled Districts of the Punjab (*vide* Notes (a) and (b) to Act XIV of 1874).

Act No. XXXI of 1854.*(Passed on the 16th December 1854).*

An Act to simplify the modes of conveying land in cases to which the English Law is applicable.

Whereas it is expedient, in cases to which the English law applies, to simplify the modes of conveying land, and to exempt the purchasers of trust property from the liability to see to the application of the purchase money; it is enacted as follows:—

NOTE.—The words in the title and preamble referring to the abolition of “real actions” and also “fines and common recoveries” have been repealed by Act XVI of 1874, and are therefore omitted in the text.

1. Repealed by Act XIV of 1870.

2. Every tenant-in-tail or other owner of an estate of inheritance less than an estate in fee simple, either at law or in equity, in any lands or hereditaments, not being under any disability, shall have power to dispose of such lands and hereditaments against the issue in tail, and all persons whose estates are to take effect after the determination or in defeasance of his own, or to enlarge his said estate into an estate in fee simple, by any deed declaring an intention so to dispose of the said lands or hereditaments, or to enlarge his estate therein; and every tenant-in-tail or other owner of an estate of inheritance less than an estate in fee simple, who shall be under the disability of coverture, shall have power to dispose of or enlarge her said estate in manner aforesaid, by any deed declaring her intention so to do, and acknowledged by her as hereinafter mentioned. Provided that every disposition under this section shall be subject to the rights of all persons in respect of estates prior to the estate tail or other estate of inheritance which is the subject of such disposition, and the rights of all other persons, except those against whom such disposition is by this Act authorized to be made.

Tenant-in-tail may dispose of or enlarge his estate by simple deed, &c.

3. Every married woman who, either alone, or jointly with her husband, is possessed of, or entitled to any estate or interest in, or any power to be exercised over any lands or hereditaments, which, but for the passing of this Act, she might have disposed of or extinguished by levying a fine, or suffering a recovery, or by joining in either of such assurances, shall have power by deed, to be acknowledged by her as hereinafter mentioned, to dispose of, release, surrender, or extinguish any such estate, interest, or power, as fully and effectually as if she were an unmarried woman.

A married woman, with her husband's concurrence, empowered to dispose of her estate by deed acknowledged, &c.

4. The provisions of the last two preceding sections shall, so far as circumstances will admit, apply to money subject to be invested in lands or other hereditaments.

Sections 2 and 3 to apply to money subject to be invested in land.

5. No deed to be executed by a married woman under the provisions hereinbefore contained shall, so far as regards the interest of such married woman, be valid or effectual, unless her husband concur therein, nor unless the

Execution of deeds by married woman.

deed be acknowledged in manner hereinafter prescribed before a Judge of one of Her Majesty's Supreme Courts, or before a Judge or other covenanted officer of the East India Company exercising civil jurisdiction in the place wherein such deed shall be acknowledged, or before some Commissioner appointed either specially for the occasion, or appointed as a permanent Commissioner by one of Her Majesty's said Courts to take such acknowledgments.

6. If the husband of any married woman, desirous of enlarging, passing, or destroying any estate, interest or power, by a deed to be acknowledged by her under this Act, shall

If husband be lunatic &c., Court may direct acknowledgment by deed without his concurrence, saving right of the husband, &c.

be a lunatic, idiot, or of unsound mind, whether he shall have been found such by inquisition or not, or from any other cause shall be incapable of executing

a deed, or if his residence shall not be known, or if he shall be in prison, or living apart from his wife either by mutual consent or by sentence of divorce, or in consequence of his being transported beyond the seas, or from any other cause whatever, it shall be lawful for any of Her Majesty's said Courts, by an order to be made in a summary way upon the application of such married woman, and upon such evidence as to the Court shall seem meet, to dispense with the concurrence of her husband in the deed so to be acknowledged; and any deed to be executed or acknowledged by her in pursuance of such order shall (but without prejudice to the rights of her husband as then existing, independently of this Act) be as valid and effectual as if he had concurred therein.

7. It shall be lawful for any of Her Majesty's said Courts to appoint by its order, under the seal of the Court, to be published

Supreme Courts may appoint for the purpose of taking such acknowledgment, permanent or special Commissioners.

in the Government Gazette or otherwise as the Court shall direct, permanent Commissioners, either by name or office, and to appoint from time to time, under special commissions, special Commissioners,

any one of whom shall be authorized and empowered, unless the Act is directed to be done before more than one, to take the acknowledgment of any deed by any married woman, who, by reason of her place of residence, or ill-health, or other sufficient cause, shall be unable to make such acknowledgment before one of the Judges or other officers described in the preceding section.

NOTE.—Under this section the High Court of Calcutta has appointed certain Commissioners in England to take the acknowledgments under this Act of married women in respect of property in India.—(*Notification of the High Court, Calcutta, dated 20th January 1869—Gazette of India of 30th idem, page 146*).

The Chief Court of the Punjab has accepted the Commissioners nominated by the High Court of Calcutta.—(*Registrar's Letter No. 4557, dated 30th October 1868, to Secretary to Government, Punjab*).

8. Every such Judge, officer, or Commissioner as aforesaid, before he

Such married woman to be examined apart before Judge &c., taking her acknowledgment.

shall receive the acknowledgment by any married woman of any deed to be acknowledged by her under this Act, shall examine her apart from her husband touching her knowledge of such deed, and shall

ascertain whether she understands its object, and freely and voluntarily consents to the same, and unless she appears to understand its object, and freely and voluntarily to consent to such deed, he shall not permit her to acknowledge the same, and in such case, such deed, so far as relates to the execution thereof by such married woman, shall be void.

9. Every Judge, officer or Commissioner taking such acknowledgment Judge, &c., shall sign a memorandum of acknowledgment.—Form of it. under this Act, shall, at the time of taking the same, sign a memorandum to be endorsed on or written at the foot, or in the margin of such deed, which memorandum shall be to the following effect, namely, “this deed, marked (), was this day produced before me and acknowledged by therein named, to be her act and deed, previous to which acknowledgment the said was examined by me separately and apart from her husband, touching her knowledge of the contents of the said deed, and her consent thereto, and appeared to understand the same, and declared the same to be freely and voluntarily executed by her.”

10. Every deed executed by a married woman and hereby required to be acknowledged, shall, so far as regards the interest of such married woman, take effect only from the time of the acknowledgment thereof.

11. It shall not be necessary for any person producing a deed so acknowledged in any Court of Justice, to prove the hand-writing or authority of the Judge or other officer, or the Commissioner taking such acknowledgment, but if such memorandum purports to have been in substance regularly made and signed, the deed shall be presumed to have been duly acknowledged by the party until the contrary is shown.

12. Nothing in this Act contained shall abridge, extend, or affect the powers of alienation or disposition, which any married woman might have exercised over any property or rights, otherwise than by levying a fine or suffering a recovery, or by joining in one of such assurances before the passing of this Act.

13. In any deed or will executed after this Act comes into operation, and disposing of immoveable property situate in the territories under the Government of India, wherein contingent estates are limited without the appointment of any trustees to preserve such contingent estates, the same shall be, to all intents and purposes, as effectually protected by the law as if such trustees had been duly appointed.

14. Any estate or interest in immoveable property, situate within the said territories, whether in possession, remainder, or reversion, may, in addition to any other mode of conveyance or release which is now valid, be conveyed, passed, or released by simple deed, whether such deed operate under the Statute of Uses or not.

15. No conveyance of any kind shall operate to destroy, impair, or affect any estate or interest which the conveying party has no right to destroy, impair, or affect, or beyond the extent to which he may impair or affect the same.

16. It shall not be necessary in any deed relating to immoveable property situate within the said territories, to be executed after the passing of this Act, to add words of limitation to heirs, when the intention is to give the absolute interest to a person and his heirs general: but a gift, grant, or other

conveyance of immoveable property to, or in favor of any person, shall be taken to give him the entire and absolute interest in the nature of an estate in fee simple, unless such construction is rendered inadmissible by the other

contents of the deed; and when, in any deed or will, executed after the passing of this Act, any property is given to a person for life or for other freehold interest, and afterwards, in the same deed or will, is limited to his heirs or heir special, the estates shall not unite, but the limitation to the heirs shall be a limitation of an estate to be taken by the heirs by purchase.

17. When any property is sold, the proceeds of which are subject to any trust, the *bonâ fide* purchaser of the property shall not in any case be bound to see to the application of the purchase-money to the purposes of the trust.

Bonâ fide purchaser not required to see to application of trust money in any case.

NOTE.—This section has been repealed by Act IV of 1882 in the territories to which that Act extends.

18. Nothing in this Act contained shall extend to any case to which the English law is not applicable.

Act to apply only to cases governed by English law.

19. Repealed by Act XVI of 1874.

NOTE.—This Act is declared to be in force throughout the whole of British India, except the Scheduled Districts, by Act XV of 1874. It is also declared to be in force in certain of the Scheduled Districts of the Punjab, but not in Lahul (vide Notes (a) and (b) to Act IV of 1874).

ACT No. XI of 1855.

(Passed on the 27th March 1855).

An Act relating to mesne profits and to improvements made by holders under defective titles in cases to which the English Law is applicable.

Whereas it is expedient, in cases to which the English law is applicable, to limit the liability for mesne profits, and to secure to *bonâ fide* holders under defective titles the value of improvements made by them; It is enacted as follows :—

Preamble.

NOTE.—The references to “mesne profits” are repealed in the above title and preamble by Act IV of 1882 in the territories to which that Act extends.

1. No person shall be chargeable with any rents or profits of any immoveable property which he has *bonâ fide* paid over to any person of whom he *bonâ fide* held the same, notwithstanding it may afterwards appear that the person to whom such payment was made had no right to receive such rents or profits.

No person to be chargeable with rent *bonâ fide* paid to a holder under defective title.

2. If any person shall erect any building or make an improvement upon any lands held by him *bonâ fide* in the belief that he had an estate in fee simple, or other absolute estate, and such person, his heirs or assigns, or his or their under-tenants, be evicted from such lands by any person having a better title, the person who erected the building or made

Value of improvements made by *bonâ fide* holders under defective titles secured to them.

the improvement, his heirs or assigns, shall be entitled either to have the value of the building or improvement so erected or made during such holding and in such belief, estimated and paid or secured to him or them, or, at the option of the person causing the eviction, to purchase the interest of such person in the lands at the value thereof, irrespective of the value of such building or improvement. Provided that the amount to be paid or secured in respect of such building or improvement shall be the estimated value of the same at the time of such eviction.

Act to apply only to cases governed by English law.

3. Nothing in this Act contained shall extend to any case to which the English law is not applicable.

NOTE.—This Act is declared to be in force throughout the whole of British India, except the Scheduled Districts, by Act XV of 1874. It has also been declared to be in force in certain of the Scheduled Districts of the Punjab, but not in Lahul (*vide* Notes (a) and (b) to Act XIV of 1874).

ACT No. XII of 1855.

(Passed on the 27th March 1855).

An Act to enable Executors, Administrators or Representatives to sue and be sued for certain wrongs.

Whereas it is expedient to enable executors, administrators or representatives in certain cases to sue and be sued in respect of certain wrongs which, according to the present law, do not survive to or against such executors, administrators or representatives; It is enacted as follows:—

Preamble.

1. An action may be maintained by the executors, administrators or representatives of any person deceased, for any wrong committed in the life-time of such person, which has occasioned pecuniary loss to his estate, for which wrong an action might have been maintained by such person, so as such wrong shall have been committed within one year before his death; and the damages, when recovered, shall be part of the personal estate of such person: and further, an action may be maintained against the executors or administrators or heirs or representatives of any person deceased for any wrong committed by him in his life-time for which he would have been subject to an action, so as such wrong shall have been committed within one year before such person's death: and the damages to be recovered in such action shall, if recovered against an executor or administrator bound to administer according to the English law, be payable in like order of administration as the simple contract debts of such person.

NOTE.—As amended by Act IX of 1871.

2. No action commenced under the provisions of this Act shall abate by reason of the death of either party, but the same may be continued by or against the executors, administrators or representatives of the party deceased. Provided that, in any case in which any such action shall be continued against the executors, administrators or representatives of

Death of either party not to abate suit.

a deceased party, such executors, administrators or representatives may set up a want of assets as a defence to the action, either wholly or in part, in the same manner as if the action had been originally commenced against them.

NOTE.—This Act is declared to be in force throughout the whole of British India, except the Scheduled Districts, by Act XV of 1874. It has also been declared to be in force in certain of the Scheduled Districts of the Punjab (*vide* Notes (a) and (b) to Act XIV of 1874).

ACT No. XIII of 1855.

(Passed on the 27th March 1855).

An Act to provide compensation to families for loss occasioned by the death of a person caused by actionable wrong.

Whereas no action or suit is now maintainable in any Court against a person who, by his wrongful act, neglect, or default, may have caused the death of another person, and it is often-times right and expedient that the wrong-doer in such case should be answerable in damages for the injury so caused by him ; It is enacted as follows :—

1. Whenever the death of a person shall be caused by wrongful act, neglect or default, and the act, neglect or default is such as would (if death had not ensued) have entitled the party injured to maintain an action and recover damages in respect thereof, the party who would have been liable if death had not ensued, shall be liable to an action or suit for damages, notwithstanding the death of the person injured, and although the death shall have been caused under such circumstances as amount in law to felony or other crime. And it is enacted further, that every such action or suit shall be for the benefit of the wife, husband, parent and child, if any, of the person whose death shall have been so caused, and shall be brought by and in the name of the executor, administrator or representative of the person deceased ; and in every such action, the Court may give such damages as it may think proportioned to the loss resulting from such death to the parties respectively, for whom and for whose benefit such action shall be brought, and the amount so recovered after deducting all costs and expenses, including the costs not recovered from the defendant, shall be divided amongst the before-mentioned parties, or any of them, in such shares as the Court by its judgment or decree shall direct.

2. Provided always that not more than one action or suit shall be brought for, and in respect of the same subject-matter of complaint ; provided that, in any such action or suit, the executor, administrator, or representative of the deceased may insert a claim for and recover any pecuniary loss to the estate of the deceased occasioned by such wrongful act, neglect or default, which sum, when recovered, shall be deemed part of the assets of the estate of the deceased.

NOTE.—As amended by Act IX of 1871.

3. The plaint in any such action or suit shall give a full particular of the person or persons for whom, or on whose behalf, such action or suit shall be brought, and of the nature of the claim in respect of which damages shall be sought to be recovered.

Plaintiff shall deliver particulars, &c.

4. The following words and expressions are intended to have the meanings hereby assigned to them respectively, so far as such meanings are not excluded by the context or by the nature of the subject-matter, that is to say, words denoting the singular number are to be understood to apply also to a plurality of persons or things, and words denoting the masculine gender are to be understood to apply also to persons of the feminine gender; and the word "person" shall apply to bodies politic and corporate; and the word "parent" shall include father and mother, and grandfather and grandmother; and the word "child" shall include son and daughter, and grandson and granddaughter, and stepson and step-daughter.

Construction of Act.

NOTE.—This Act is declared to be in force throughout the whole of British India, except the Scheduled Districts, by Act XV of 1874. It has also been extended to the Scheduled Districts (*Government of India Notification No. 296 I. J. dated 13th October 1881—Punjab Gazette of 20th October 1881, Part II, p. 312*).

ACT No. XXIV of 1855.

(Passed on the 13th August 1855).

An Act to substitute penal servitude for the punishment of transportation in respect of European and American Convicts, and to amend the Law relating to the removal of such Convicts.

Whereas, by reason of the difficulty of providing a place to which Europeans or Americans can, with safety to their health, be sent for the purpose of undergoing sentences of transportation or of imprisonment for long terms, it has become expedient to substitute other punishment for that of transportation, and to amend the law relating to the removal of European and American convicts for the purpose of imprisonment; It is enacted as follows:—

Preamble.

1. No European or American shall be liable to be sentenced or ordered, by any Court within the territories under the Government of India, to be transported.

No European or American can be sentenced to transportation.

NOTE.—The words repealed by Act XVI of 1874 and Act XII of 1876 have been omitted.

2. Any person who, but for the passing of this Act, would, by any law now in force, or which may hereafter be in force, in any part of the said territories, be liable to be sentenced or ordered, by any such Court, to be transported, shall, if a European or American, be liable to be sentenced or ordered to be kept in penal servitude for such term as hereinafter mentioned.

Term of penal servitude instead of the present terms of transportation.

The terms of penal servitude to be awarded by any sentence or order, instead of the term of transportation to which any such offender would, but for the passing of this Act, be liable, shall be as follows: (that is to say)—

Instead of transportation for seven years, or for a term not exceeding seven years, penal servitude for the term of four years.

Instead of any term of transportation exceeding seven years, and not exceeding ten years, penal servitude for any term not less than four and not exceeding six years.

Instead of any term of transportation exceeding ten years, and not exceeding fifteen years, penal servitude for any term not less than six and not exceeding eight years.

Instead of any term of transportation exceeding fifteen years, penal servitude for any term not less than six and not exceeding ten years.

Instead of transportation for the term of life, penal servitude for the term of life.

And in every case where, at the discretion of the Court, one of any two or more of the terms of transportation hereinbefore mentioned might have been awarded, the Court shall have the like discretion to award one of the two or more terms of penal servitude hereinbefore mentioned, in relation to such terms of transportation.

NOTE.—Section 56 of the Indian Penal Code declares that whenever Europeans or Americans are convicted of an offence punishable under the Code with transportation, the Court shall sentence them to penal servitude, instead of transportation, according to the provisions of Act XXIV of 1855.

3. Provided always that nothing herein contained shall interfere with Discretion of Court as to or affect the authority or discretion of any Court in respect of any punishment which such Court may now award or pass on any offender other than transportation; but where such other punishment may be awarded at the discretion of the Court instead of transportation or in addition thereto, the same may be awarded instead of, or (as the case may be) in addition to, the punishment substituted for transportation by this Act.

4. If any offender sentenced by any Court within the said territories to the punishment of death shall have mercy extended to him, upon condition of his being kept in penal servitude for life, or for any term of years, all the provisions of this Act shall be applicable to such offender in the same manner as if he had been lawfully sentenced under this Act to the term of penal servitude specified in the condition.

5—7. Repealed by Act V of 1871.

8. The person or persons for the time being administering the executive government of the presidency or place in which any European or American convict is imprisoned, under a sentence or order of imprisonment for a term exceeding one year, whether with or without hard labour, may, with the consent of the Governor-General of India in Council order the removal of such prisoner from the prison in which he is confined to any other prison or place of confinement within any part of the said territories; and such order shall be a sufficient authority for imprisoning the convict during the remainder of the term mentioned in the sentence, or any part of such term, in the jail to which the prisoner is removed.

NOTE.—This section is repealed in each of the Presidencies of Fort William, Madras and Bombay by Act XII of 1867, which has since been repealed by Act V of 1871.

9—12. *Repealed by Act V of 1871.*

13. Nothing in this Act is intended to alter or affect the provisions of the 12 and 13 Victoria, Chapter 43, or any Act of Parliament passed in the United Kingdom of Great Britain and Ireland since the 28th of August 1833, or which may hereafter be passed.

14. Any sentence or order upon any person describing him as a European or American shall be deemed, for the purposes of this Act, to be conclusive of the fact that such person is a European or American within the meaning of this Act.

15. The word "European," as used in this Act, shall be understood to include any person usually designated a European British subject. Words in the singular number or the masculine gender shall be understood to include several persons as well as one person, and females as well as males, unless there be something in the context repugnant to such construction.

16. *Repealed by Act XIV of 1870.*

NOTE.—This Act is declared to be in force throughout the whole of British India, except the Scheduled Districts, by Act XV of 1874. It has also been declared to be in force in certain of the Scheduled Districts of the Punjab, but not in Lahul (*vide* Notes (a) and (b) to Act XIV of 1874).

ACT No. XXVIII of 1855.

(Passed on the 19th September 1855).

An Act for the repeal of the Usury Laws.

Preamble.

Whereas it is expedient to repeal the laws now in force relating to Usury; It is enacted as follows:—

1. *Repealed by Act XIV of 1870.*

2. In any suit in which interest is recoverable, the amount shall be adjudged or decreed by the Court at the rate (if any) agreed upon by the parties; and if no rate shall have been agreed upon, at such rate as the Court shall deem reasonable.

3. Whenever a Court shall direct that a judgment or decree shall bear interest, or shall award interest upon a judgment or decree, it may order the interest to be calculated at the rate allowed in the judgment or decree upon the principal sum adjudged, or at such other rate as the Court shall think fit.

4. A mortgage or other contract for the loan of money by which it is agreed that the use or usufruct of any property shall be allowed in lieu of interest, shall be binding upon the parties.

5. Whenever, under the Regulations of the Bengal Code, a deposit

What amount of interest to be deposited in certain cases of conditional sales under the Bengal Regulations.

may be made of the principal sum and interest due upon any mortgage or conditional sale of land hereafter to be entered into, the amount of interest to be deposited shall be at the rate stipulated in the contract, or, if no rate has been stipulated, and interest be payable under the terms of the contract, at the rate of twelve per centum per annum. Provided that, in the latter case, the amount deposited shall be subject to the decision of the Court as to the rate at which interest shall be calculated.

Proviso.

6. In any case in which an adjustment of accounts may become

Rate of interest on future adjustments of accounts.

necessary between the lender and the borrower of money upon any mortgage, conditional sale of landed property, or other contract whatsoever, which may be entered into after the passing of this Act, interest shall be calculated at the rate stipulated therein ; or, if no rate of interest shall have been stipulated, and interest be payable under the terms of the contract, at such rate as the Court shall deem reasonable.

NOTES.—(a). Sections 7, 8 and the Schedule are repealed by Act XIV of 1870.

(b). This Act is declared to be in force throughout the whole of British India, except the Scheduled Districts, by Act XV of 1874. It has also been declared to be in force in certain of the Scheduled Districts of the Punjab (*vide* Notes (a) and (b) to Act XIV of 1874).

ACT No IX of 1856.

(Passed on the 11th April 1856).

An Act to amend the law relating to Bills of Lading.

Preamble.

Whereas by the custom of merchants a bill of lading of goods being transferable by endorsement, the property in the goods may thereby pass to the endorsee, but nevertheless all rights in respect of the contract contained in the bill of lading continue in the original shipper or owner, and it is expedient that such rights should pass with the property ; and whereas it frequently happens that the goods in respect of which bills of lading purport to be signed have not been laden on board, and it is proper that such bills of lading in the hands of a *bonâ fide* holder for value should not be questioned by the master or other person signing the same, on the ground of the goods not having been laden as aforesaid ; It is enacted as follows :—

1. Every consignee of goods named in a bill of lading, and every

Rights under bills of lading to vest in consignee or endorsee.

endorsee of a bill of lading to whom the property in the goods therein mentioned shall pass, upon or by reason of such consignment or endorsement, shall have transferred to and vested in him all rights of suit, and be subject to the same liabilities in respect of such goods as if the contract contained in the bill of lading had been made with himself.

2. Nothing herein contained shall prejudice or affect any right of stoppage *in transitu*, or any right to claim freight against the original shipper or owner, or any liability of the consignee or endorsee by reason or in consequence of his being such consignee or endorsee, or of his receipt of the goods by reason or in consequence of such consignment or endorsement.

3. Every bill of lading in the hands of a consignee or endorsee for valuable consideration, representing goods to have been shipped on board a vessel, shall be conclusive evidence of such shipment as against the master or other person signing the same, notwithstanding that such goods or some part thereof may not have been so shipped, unless such holder of the bill of lading shall have had actual notice at the time of receiving the same that the goods had not in fact been laden on board. Provided that the master or other person so signing may exonerate himself in respect of such misrepresentation, by showing that it was caused without any default on his part, and wholly by the fraud of the shipper, or of the holder, or some person under whom the holder claims.

NOTE.—This Act is declared to be in force throughout the whole of British India, except the Scheduled Districts, by Act XV of 1874.

ACT No. XI of 1856.

(Passed on the 11th April 1856).

An Act for the better prevention of desertion by European Soldiers from the Land Forces of Her Majesty in India.

Whereas it is expedient to make better provision for apprehending and detaining European deserters from the Land Forces in the service of Her Majesty in India, and for punishing persons who aid and encourage such deserters; It is enacted as follows :—

NOTE.—The words in the title and preamble which have been repealed by Act XIV of 1870, have been omitted.

1. If it shall appear that any officer or soldier, being a deserter from the said Forces, has been concealed on board any merchant vessel, and that the master or person in charge of such vessel for the time being, though ignorant of the fact of such concealment, might have known of the same, but for some neglect of his duty as such master or person, or for the want of proper discipline on board his vessel, such master or person shall be liable to a fine not exceeding five hundred rupees. Provided always that no conviction for such offence as is hereinbefore described shall be lawful, unless the same shall be stated in the charge which the party is called upon to answer; and in such charge, it shall be lawful to state in the alternative that the party has either knowingly harbored or concealed a deserter on board his vessel, or has, by neglect of duty or by reason of proper discipline on board the vessel, allowed such deserter to be so concealed.

NOTE.—See Sections 135 to 137, Indian Penal Code.

2. Any person, whether a European British subject or not, who shall be guilty of an offence punishable under this Act, shall be punishable for the same by any Justice of the Peace for any of the presidency towns of Calcutta, Madras and Bombay, Magistrate, or person lawfully exercising the powers of a Magistrate in any port within the territories of the East India Company within whose jurisdiction the offence may have been committed, or such person may have been apprehended or found, whether the offence shall have been committed within the local limits of the jurisdiction of such officer or not ; and any person hereby made punishable by a Justice of the Peace shall be punishable on summary conviction.

3. No conviction, order, or judgment of any Justice of the Peace shall be quashed for error of form or procedure, but only on the merits ; and it shall not be necessary to state on the face of the conviction, order, or judgment the evidence on which it proceeds ; but the depositions taken, or a copy of them, shall be returned with the conviction, order, or judgment, in obedience to any writ of *certiorari* ; and if no jurisdiction appears on the face of the conviction, order, or judgment, but the depositions taken supply that defect, the conviction, order, or judgment shall be aided by what so appears in such depositions.

4. Nothing in this Act contained shall prevent any Justice of the Peace, Magistrate, or other officer having authority in that behalf, from committing for trial any person who shall be charged with an offence punishable hereafter to be in force, notwithstanding that such offence may be also punishable under this Act. Provided that no proceedings shall have been had against such person in respect of the same offence under this Act.

5. Whenever, on information given on oath or solemn affirmation, where by law a solemn affirmation may be used instead of an oath, to the commanding officer of any fort, garrison, station, regiment or detachment, at any port or place within the territories of the East India Company, in which no person lawfully exercising magisterial powers can be found, which oath or affirmation the several persons above-named shall severally under this Act have power to administer ; or whenever, on such information as aforesaid given to any Justice of the Peace, Magistrate, or person lawfully exercising the powers of a Magistrate, having jurisdiction within such port or place, there shall appear reason to suspect that any European officer or soldier belonging to the said Forces, who may have deserted or be absent without leave, is on board any ship, vessel, or boat, or is concealed on shore at any such port or place within the territories of the East India Company, it shall be lawful for such commanding officer or Justice of the Peace, Magistrate, or person lawfully exercising the powers of a Magistrate as aforesaid to issue a warrant authorizing the person or persons to whom such warrant may be addressed, to enter into and search, at any time of the day or night, any such ship, vessel, or boat, or any house or place on shore, and to apprehend any such officer or soldier, and to detain him in custody in order to his being dealt with according to law.

6. The warrant to be issued under the preceding section may be addressed to any European officer or soldier of the said Forces, or to all constables, peace officers, and other persons who may be bound to execute the warrant of any Justice of the Peace, Magistrate, or person lawfully exercising the powers of a Magistrate, and acting in the execution of this Act; and all such persons shall be bound to execute, perform and obey such warrant.

NOTE.—The provisions of Sections 5 and 6 were extended to all Officers, Soldiers, and other persons amenable to the Articles of War for the Native Troops by Act XVII of 1857 since repealed.

Every person who shall be apprehended under any warrant under the 5th section of this Act, shall be brought without delay before a Justice of the Peace, Magistrate, or person lawfully exercising the powers of a Magistrate, in or near the place wherein such person shall have been arrested, who shall examine such person, and, if he shall be satisfied, either by the confession of such person or the testimony of one or more witness or witnesses, or by his own knowledge, that such person is a deserter from the said Forces, shall cause him to be delivered, together with any depositions and papers relative to the case, to the commanding officer of the regiment, corps, or detachment to which he shall belong, if the same shall be in or near the place of such arrest, or, if otherwise, then to the commanding officer of the nearest military station, in order that he may be dealt with according to law.

NOTES.—(a) This Act is declared to be in force throughout the whole of British India, except the Scheduled Districts, by Act XV of 1874. It has also been declared to be in force in certain of the Scheduled Districts of the Punjab but not in Lahoul (*vide* Notes (a) and (b) to Act XIV of 1874).

(b.) The words repealed by Acts XII of 1873 and XVI of 1874 have been omitted from the text.

ACT No. XV of 1856.

(Passed on the 25th July 1856).

An Act to remove all legal obstacles to the marriage of Hindoo widows.

Whereas it is known that, by the law as administered in the civil Courts established in the territories in the possession and under the government of the East India Company, Hindoo widows, with certain exceptions, are held to be, by reason of their having been once married, incapable of contracting a second valid marriage, and the offspring of such widows by any second marriage are held to be illegitimate and incapable of inheriting property; and whereas many Hindoos believe that this imputed legal incapacity, although it is in accordance with established custom, is not in accordance with a true interpretation of the precepts of their religion, and desire that the civil law administered by the Courts of Justice shall no longer prevent those Hindoos who may be so minded from adopting a different custom, in accordance with the dictates of their own consciences: and whereas it is

just to relieve all such Hindoos from this legal incapacity of which they complain : and the removal of all legal obstacles to the marriage of Hindoo widows will tend to the promotion of good morals and to the public welfare : It is enacted as follows :—

1. No marriage contracted between Hindoos shall be invalid, and the issue of no such marriage shall be illegitimate, by reason of the woman having been previously married or betrothed to another person who was dead at the time of such marriage, any custom and any interpretation of Hindoo law to the contrary notwithstanding.

2. All rights and interests which any widow may have in her deceased husband's property by way of maintenance, or by inheritance to her husband or to his lineal successors, or by virtue of any will or testamentary disposition conferring upon her, without express permission to re-marry, only a limited interest in such property, with no power of alienating the same, shall, upon her re-marriage, cease and determine as if she had then died ; and the next heirs of her deceased husband, or other persons entitled to the property on her death, shall thereupon succeed to the same.

3. On the re-marriage of a Hindoo widow, if neither the widow nor any other person has been expressly constituted by the will or testamentary disposition of the deceased husband, the guardian of his children, the father or paternal grandfather, or the mother or paternal grandmother, of the deceased husband, or any male relative of the deceased husband, may petition the highest Court having original jurisdiction in civil cases in the place where the deceased husband was domiciled at the time of his death, for the appointment of some proper person to be guardian of the said children, and thereupon it shall be lawful for the said Court, if it shall think fit, to appoint such guardian, who, when appointed, shall be entitled to have the care and custody of the said children, or of any of them, during their minority, in the place of their mother ; and in making such appointment the Court shall be guided, so far as may be, by the laws and rules in force touching the guardianship of children who have neither father nor mother. Provided that, when the said children have not property of their own sufficient for their support and proper education whilst minors, no such appointment shall be made otherwise than with the consent of the mother, unless the proposed guardian shall have given security for the support and proper education of the children whilst minors.

4. Nothing in this Act contained shall be construed to render any widow, who, at the time of the death of any person leaving any property, is a childless widow, capable of inheriting the whole or any share of such property, if, before the passing of this Act, she would have been incapable of inheriting the same by reason of her being a childless widow.

5. Except as in the three preceding sections is provided, a widow shall not, by reason of her re-marriage, forfeit any property, or any right to which she would otherwise be entitled ; and every widow who has re-married shall have the same rights of inheritance as she would have had, had such marriage been her first marriage.

6. Whatever words spoken, ceremonies performed, or engagements made, on the marriage of a Hindoo female who has not been previously married, are sufficient to constitute a valid marriage, shall have the same effect, if spoken, performed, or made on the marriage of a Hindoo widow; and no marriage shall be declared invalid on the ground that such words, ceremonies, or engagements are inapplicable to the case of a widow.

7. If the widow re-marrying is a minor whose marriage has not been consummated, she shall not re-marry without the consent of her father, or if she has no father, of her paternal grandfather, or if she has no such grandfather, of her mother, or failing all these, of her elder brother, or failing also brothers, of her next male relative. All persons knowingly abetting a marriage made contrary to the provisions of this section shall be liable to imprisonment for any term not exceeding one year, or to fine, or to both. And all marriages contrary to the provisions of this section, may be declared void by a Court of law. Provided that, in any question regarding the validity of a marriage made contrary to the provisions of this section, such consent as is aforesaid shall be presumed until the contrary is proved, and that no such marriage shall be declared void after it has been consummated. In the case of a widow who is of full age, or whose marriage has been consummated, her own consent shall be sufficient consent to constitute her re-marriage lawful and valid.

NOTE.—This Act is declared to be in force throughout the whole of British India, except the Scheduled Districts, by Act XV of 1874. It has also been declared to be in force in certain of the Scheduled Districts of the Punjab (*vide* Notes (a) and (b) to Act XIV of 1874).

ACT No. XX of 1856.

(Passed on the 14th November 1856).

An Act to make better provision for the appointment and maintenance of Police Chaukidars in Cities, Towns, Stations, Suburbs, and Bazaars in the Presidency of Fort William in Bengal.

Whereas it is expedient to make better provision for the appointment and maintenance of police chaukidars in cities, towns, stations, suburbs, and bazaars in the Presidency of Fort William in Bengal: It is enacted as follows:—

1. * * * * *
The monthly assessment levied under Regulation XXII, 1816, and Act XV of 1837 in any city or station at the time of this Act shall continue to be levied until the same shall be revised and altered under the provisions of this Act.

Existing assessment to continue to be levied until revised according to this Act.

NOTE.—The first part of this section has been repealed by Act XIV of 1870.

2. The provisions of this Act shall have effect in all cities, stations, towns, suburbs and bazaars in the said Presidency to which the Local Government may, at any time, extend the same by notification in the official Gazette: Provided always that this Act shall not be extended to any agricultural village.

In all places in which this Act is now in force, it shall be deemed to have been extended under the provisions of this section.

NOTES.—(a). This is a new section substituted by Act XXII of 1871.

(b). Under the provisions of Section 14 of Act XXII of 1864 and Act III of 1880 the Lieutenant-Governor of the Punjab has extended the provisions of Act XX of 1856 to the following Cantonments:—

- i. The Cantonment of Mooltan—(Notification No. 1528, dated 8th December 1866—*Punjab Gazette* of 13th idem; page 759).
- ii. The Cantonment of Rawalpindi—(Notification No. 1531, dated 8th December 1866—*Punjab Gazette* of 13th idem; page 759).
- iii. The Cantonment of Sialkot—(Notification No. 2, dated 3rd January 1867—*Punjab Gazette* of 10th idem; page 27).
- iv. The Cantonment of Kussowlie—(Notification No. 1145, dated 30th April 1867—*Punjab Gazette* of 2nd May 1867; page 424).
- v. The Cantonment of Dugshai—(Notification No. 1736, dated 30th November 1867—*Punjab Gazette* of 5th December 1867; page 894).
- vi. The Cantonment of Subathoo—(No. 716, dated 27th May 1869—*Punjab Gazette* of 3rd June 1869).
- vii. The Cantonment of Jhelum—(No. 474, dated 7th April 1871—*Punjab Gazette* 13th idem).
- viii. The Cantonment of Jullundur—(No. 1410, dated 15th August 1871—*Punjab Gazette* of 17th idem).
- ix. The Cantonment of Meeran Meer—(No. 249, dated 26th January 1872—*Punjab Gazette* of 1st February 1872).
- x. The Cantonment of Peshawar—(No. 1306, dated 13th April 1872—*Punjab Gazette* of 18th idem, and No. 1246, dated 16th May 1876—*Punjab Gazette* of 18th idem).
- xi. The town of Kalka in the Simla district—(No. 281, dated 4th February 1882—*Punjab Gazette* of 9th idem).
- xii. The Cantonment of Jatogh—(No. 1512, dated 28th May, 1881—*Punjab Gazette* of 2nd June).
- xiii. The Cantonment of Ferozepore—(No. 2478, dated 6th October 1884—*Punjab Gazette* of 9th idem, Part I, page 938).
- xiv. The Cantonment of Amritsar—(No. 2910, dated 19th November 1884—*Punjab Gazette* of 20th idem, Part I, page 1126).

(c). The Cantonment Magistrate of any Military Cantonment to which this Act has been extended may exercise all the powers vested in a Magistrate by this Act subject only to the control of the Magistrate of the District and the Local Government. If there be no Cantonment Magistrate, the Magistrate of the District shall carry out the provisions of this Act when so extended.—(See Act III of 1880, S. 12).

3. The Government may, by notification to be published in the official Gazette, unite, for the purposes of this Act, any city, town, suburb, station, or bazaar, or any part or parts of a city, town, suburb, station, or bazaar, with any other city, town, suburb, station, or bazaar, or part or parts of a city, town, suburb, station, or bazaar; and in such case all the provisions of this Act applicable to a city, town, suburb, station, or bazaar shall apply to such union.

4. For the purposes of this Act the local Government may define and declare the limits of any city, town, suburb, station, limits of cities, towns, &c. bazaar, or union, and all occupiers of houses within any such city, town, suburb, station, bazaar, or union as aforesaid, or within such limits as shall be so defined as aforesaid, shall be liable to be assessed or rated according to the provisions of this Act, for the purpose of maintaining the chaukidars appointed to be maintained in such city, town, station, suburb, bazaar, or union.

5. If any house be let out in portions to different persons, or be let out to or occupied by lodgers or travellers, the person who shall so let the same, or who shall receive the rents or payments from such persons or lodgers or travellers, shall, for the purposes of this Act, be deemed to be the occupier of such house.

Houses let to lodgers how to be assessed.

6. The Magistrate may cause a name to be given to any street and affixed in such place or places as he may think fit, and may also cause a number to be affixed to every house in any street or mohulla, for the purpose of identifying such house; and if any person shall wilfully remove, obliterate, or destroy such name or number, he shall be liable, on conviction by a Magistrate, to a fine not exceeding twenty rupees.

Penalty for removing, &c., name of street or number of house.

7. The Magistrate shall determine the number of chaukidars to be maintained in any city, town or other such place as aforesaid: but the number of chaukidars so to be maintained shall not exceed one to every twenty-five houses.

Magistrate to determine number of chaukidars. Proviso.

8. The chaukidars appointed under this Act may be of different grades, and the wages to be paid to the several grades shall be determined by the Magistrate.

Grades and wages of chaukidars.

9. The Magistrate shall determine the total amount required to be raised in any year in any city, town, or other such place as aforesaid, for the purpose of maintaining the chaukidars appointed to be maintained therein, and for the purposes specified in Sections 33, 34, 35 and 36 of this Act, together with such sum as the Magistrate may consider necessary to provide against the contingency of losses from defaulters in the current year, and the amount of losses, if any, actually sustained from defaulters in the preceding year.

Magistrate to determine the sum to be raised annually.

10. The tax to be levied in any city, town, or other place as aforesaid, for the purposes of this Act, may be either an assessment according to the circumstances and the property to be protected, of the persons liable to the same, or a rate on houses and grounds according to the annual value thereof. The local Government, on the report of the Magistrate and Commissioner of Circuit, shall determine in each case whether the tax to be levied shall be such assessment or such rate.

Nature of the tax to be levied.

NOTE.—The local Government may order that any Cantonment to which the provisions of this Act shall be extended be divided into any number of Cantonment divisions, and may determine the nature of the tax to be levied in each division according to this section.—(Act III of 1880, Section 13). See the notes to that section, and Section 12, Act III of 1880.

11. If the tax be an assessment according to the circumstances and the property to be protected of the persons liable to the same, the amount assessed in respect of any one house shall not be more than the pay of a chaukidar of the lowest grade. If the tax be a rate on houses and grounds, it shall not exceed five per centum of the annual value thereof.

Limitation of tax.

NOTE.—This is a new section substituted by Act XXII of 1871.

12. For the purpose of making a rate under this Act, the annual value of the houses and grounds liable to the rate shall be computed and ascertained upon an estimate of the gross annual rent at which the same might reasonably be expected to let from year to year. Grounds used for purposes of trade shall be liable to the rate, but grounds used for the purpose of cultivation or for depasturing cattle shall not be liable.

13. The Magistrate may, at his discretion, exempt from the assessment or rate, or may relieve from the payment of his assessment or rate, any occupier who may be unable from poverty to pay the same.

14. For the purposes hereinafter mentioned, the Magistrate shall constitute and appoint a punchayet for each such city, town or other place as aforesaid, or, when he may see fit to divide any such city, town, or place into convenient divisions, for each division thereof, and shall issue a sunnid of appointment specifying the names, residence, business, or other description of the persons appointed and the period for which the appointment is made. Every punchayet shall consist of three or five respectable persons residing or carrying on business in or near to any such city, town or other place, or in or near to any such division thereof. Provided that, instead of any such person, the Magistrate may appoint any person whom he may think fit to be a member of the punchayet, notwithstanding such person may not reside or carry on business in or near to such city, town, or other place, or in or near to any such division thereof.

15. The punchayet so appointed or the majority of them, shall, once in every year, if required so to do by the Magistrate, prepare and make, in accordance with the rules laid down in the requisition, an assessment or rate upon the several persons liable to be assessed or rated in respect of their occupation of property within the district (whether city, town, or other place as aforesaid, or any division thereof) for which the punchayet shall be appointed, and shall enter the same in a list which shall specify the names of the several occupiers of property within the district liable to be assessed or rated under the provisions of this Act, the trade, business, or other description of such occupier, the property occupied, and the amount payable monthly by such occupier. If the tax be a rate on the annual value of the property occupied, such annual value and the total amount of the annual rate shall also be specified. The requisition of the Magistrate to the punchayet to make out such list shall be in the form marked A or B, as the case may be, set forth in the appendix to this Act annexed, or to the like effect.

16. The punchayet shall, if required by the Magistrate so to do, instead of making a new assessment or rate, revise and amend the assessment or rate then in force.

17. When an assessment or rate shall have been made or revised as the case may be, the punchayet shall forward to the Magistrate the list containing the same; and the Magistrate shall revise, and, if necessary, amend and settle it.

18. When the assessment or rate shall have been settled, the Magistrate shall sign the list, and shall cause one copy thereof, together with a notification prepared according to the form marked C in the appendix to this Act, or to the like effect, and written in the language of the province in which the city, town, or place is situate, to be stuck up in some conspicuous place in the district for which the assessment or rate has been made; and another copy, together with a like notification, at the nearest police thanna; and shall also cause a third copy to be deposited in his own office.

19. Unless revised or corrected as hereinafter provided, every assessment or rate under this Act shall stand good for one whole year, and until a new one is made, and in case the occupier of any property included in any assessment or rate shall be changed before a new one is made, the new occupier shall be liable in respect of such property for any portion of the assessment or rate which shall have become payable during his occupation instead of the former occupier thereof, and, after notification to such person, the Magistrate may cause his name to be substituted in the said list for the name of the former occupier. Every assessment or rate which shall be revised according to the provisions of Section 16 shall be deemed a new assessment or rate. Provided always, that, if no new assessment or rate is made within the first three months of any year, the list of the previous year shall be republished according to the provisions of Section 18, and shall thereupon be deemed to be the assessment or rate for the current year, and shall be open to appeal under the next succeeding section.

20. Any person assessed or rated, who shall be dissatisfied with his assessment or rate, or who shall dispute his occupation of any property, or his liability to be assessed or rated, may appeal on unstamped paper to the Magistrate, and the Magistrate, after making such inquiries as he deems necessary, by examination of the appellant on oath or solemn affirmation, or otherwise, may confirm the assessment or rate or amend the same. In case the Magistrate confirm the assessment or rate, he may award costs against the appellant. The decision of the Magistrate in such cases shall be final, and no objection shall be taken to any assessment or rate, nor shall the liability of any person to be assessed or rated be questioned in any other manner or by any other Court. Provided that no appeal shall be received after the expiration of one month from the time of the notification of the assessment or rate prescribed by Section 18, or of the notification of the substitution of the name of an occupier under Section 19, unless the Magistrate, upon reasonable cause shown, shall extend the time for receiving such appeal.

21. The Commissioner of Circuit, with the consent of the local Government, may at any time direct the Magistrate to revise the assessment or rate of any city, town or other place as aforesaid, specifying the reasons which, in his opinion, render such revision necessary, and the Magistrate shall, according to such direction, revise, and, if necessary, amend the same.

22. The Magistrate may require the punchayet to revise the assessment or rate at any period during the year ; but on every such occasion he shall address a written order to the punchayet, specifying the reasons which render such revision necessary, and requiring an amended return within a stated period.

23. Whenever any assessment or rate is revised during the year as provided in the two last preceding sections, a revised list, together with a notification as prescribed in Section 18, shall be prepared and published in the manner therein directed. And all objections to such revised assessment or rate shall be made and dealt with in the manner prescribed in Section 20.

24. If any person appointed a member of a punchayet refuse to undertake the office, or omit to perform the duties thereof, and do not, within fifteen days from the date of his appointment, show satisfactory grounds for his refusal or omission, or provide such a substitute as the Magistrate approves, the Magistrate may fine such person in a sum not exceeding fifty rupees.

25. If the persons appointed a punchayet, or a majority of them, refuse or omit, for a period of fifteen days after the receipt of an order from the Magistrate, to perform the duties required of them, the Magistrate may himself make or revise the assessment or rate, and may enforce the same as if it had been made or revised in the first instance by the punchayet. Provided that the functions of the punchayet shall not thereby absolutely cease and determine, but may be resumed at any time, only not so as to invalidate any act done by the Magistrate under this section.

26. No person shall be bound to act on a punchayet unless he shall reside or carry on business within the limits of the district for which the punchayet is to be appointed.

27. Every punchayet shall be appointed for the period of one year, and no person shall be compelled to serve on a punchayet for more than one year at a time, or within less than three years after the expiry of previous service ; but nothing in this section shall prevent any person from being appointed to serve on a punchayet at any time whatsoever with his own consent.

28. If a majority of the persons assessed or rated in any district for which a punchayet shall be appointed, not being in arrears, make application in writing to the Magistrate for the removal of any member of the punchayet appointed for such district, the Magistrate, if he think it expedient, may remove such member from the punchayet.

29. If any vacancy shall occur among the members of a punchayet, or if any member appointed shall refuse or decline or be unable to act, the Magistrate may nominate and appoint another person to supply the vac

or to act in the stead of such member, subject to the rules already laid down as to the original appointment of members; but such appointment may be made by a written communication to the person appointed, and it shall not be necessary to issue a new sunnud under Section 14 of this Act.

30. The punchayet shall give notice to the Magistrate of any neglect or misconduct on the part of any chaukidar within the district for which they are appointed, which shall come to their knowledge; and shall also give notice of any vacancy which shall occur in consequence of the death or absence of any chaukidar or from any other cause.

31. In cities and large towns containing three or more divisions or districts, the Magistrate may appoint a sudder punchayet consisting of not less than five members, who may be selected either from the members of the local punchayets or from any other residents of the city or town. It shall be the duty of the sudder punchayet to assist the Magistrate, when required so to do, in carrying out generally the objects of this Act, and particularly in revising the assessment or rate made by the district punchayets and enquiring into and reporting on appeals preferred against the same.

32. The chaukidars to be employed under this Act shall be appointed by the Magistrate, and the Magistrate shall cause to be kept a register in which shall be entered the name, age, place of residence, and previous occupation of every person so appointed, with the date of his appointment.

33. Subject to the approval of the Commissioner of Circuit, the Magistrate may appoint such number of jemadars and inspectors as may be necessary for the supervision and control of the chaukidars. Provided that the number of these officers shall not be greater than one jemadar to fifteen chaukidars, and one inspector to sixty chaukidars.

34. Subject to the approval of the Commissioner of Circuit, the Magistrate may appoint one or more tax collectors or darogahs, and such other servants as may be necessary for preparing, or assisting the punchayet in preparing, the assessment or rate, for copying the same, for collecting the tax, keeping the accounts and records, and otherwise carrying out the purposes of this Act. The Magistrate shall take from every tax collector or darogah such security for the due disposal of the sums collected by him as may be thought necessary.

35. The Magistrate may further incur any reasonable expense in the purchase of stationery, in providing badges, dresses, and weapons for the chaukidars, and for any other contingencies that may seem to him necessary.

36. After paying the wages of the chaukidars, and defraying the charges specified in the three last preceding sections of this Act, the Magistrate may, with the sanction of the Commissioner of Circuit, appropriate

priate any sum which may be available to the purpose of cleansing the city, town, or place, or of lighting or otherwise improving the same.

NOTE.—The Local Government may prescribe rules for regulating the expenditure of any funds raised under this Act for the general purposes of Act III of 1880. Such funds may be expended for the purpose of carrying out any measures under the rules and regulations made under Section 25 or 31 of Act III of 1880, in addition to or in lieu of the purposes described in this Section.—(Act III of 1880, Section 35).

37. The tax-darogahs shall prepare, from the lists hereinbefore mentioned, a register, which shall be attested by the Magistrate or his Deputy or Assistant, and shall contain the names of all persons assessed or rated so far as they can be ascertained, the property in respect of which the assessment or rate in each case is imposed, and the amount payable monthly by each person.

38. On such dates as may be fixed by the punchayets for payment of instalments of the tax, the tax-darogah shall proceed in person, or through some one of his office establishment, to collect the amount due for the current month from each person subject to the tax, and for all sums so collected the darogah shall grant a receipt: Provided that, with the sanction of the Commissioners of Circuit previously obtained, the collection may be made quarterly instead of monthly; and in such case, the amount due for each quarter shall be collected in the last month of that quarter.

NOTE.—This is a new section substituted by Act XXII of 1871.

39. The tax-darogah shall remit to the Magistrate, in such manner as the Magistrate shall direct, all sums of money collected either by himself or by any one of his establishment, and the Magistrate, or some officer of his establishment authorized on that behalf, shall give the darogah a receipt for every sum of money so remitted. The Magistrate shall also cause all such sums of money to be credited to a separate fund, to be called the chaukidari fund of the city, town, or place in or on account of which they are collected.

40. The tax-darogah shall prepare all summonses and processes to be issued against defaulters, and shall make the usual returns thereto, and shall keep a regular account of all distresses levied and sales made by him for the realization of arrears.

41. On the tenth day after the date fixed for the payment of instalments of the tax, or as soon after as possible, the tax-darogah shall deliver or transmit to the Magistrate, in one list, a statement of all defaulters, the property in respect of which they are assessed or rated, the amount of the monthly assessment or rate, and the amount due from each.

NOTE.—As amended by Act XXII of 1871, Section 4.

42. On receipt of the aforesaid list, the Magistrate shall issue a summons against each of the defaulters therein mentioned, requiring him either to pay the demand or to attend at the cutcherry of the Magistrate within a reasonable time, to be specified in the summons, to show cause for his refusal.

43. If any defaulter fail to appear in answer to the summons, or having appeared, fail to satisfy the Magistrate that no arrear is due from him, the Magistrate may issue a warrant to the tax-darogah, authorizing him to assess to be levied from defaulters by distress and sale.

levy the whole or any part of the demand by distress and sale of any goods and chattels belonging to the defaulter, or being at any time upon the premises in respect of which the arrear is due; and the Magistrate's order as contained in the warrant shall be final.

44. The tax-darogah shall make an inventory of all goods and chattels seized under the Magistrate's warrant, and shall

Sale how to be conducted. give previous notice of the sale, and the time and place thereof, by beat of drum, in the district in which the property is situated. If the arrear be not paid with costs, or the warrant be not in the meantime discharged or suspended by the Magistrate, the goods and chattels seized shall be sold at the time and place specified, in the most public manner possible; and the proceeds shall be applied in discharge of the arrears and costs, and

Proceeds how to be applied. the surplus, if any, shall be returned on demand to the person in possession of the goods and chattels at the time of the seizure. The tax-darogah

Returns of sale.

Costs.

shall make a return of all such sales to the Magistrate in the form specified in Appendix D, and the costs upon every such proceeding shall be such as are mentioned and set forth in Appendix E annexed to this Act.

45. Any tax-darogah or other servant appointed under this Act,

Penalty for tax-darogah purchasing at such sales. and any chaukidar or officer of Police, who shall purchase any property at any such sale as aforesaid, shall be liable, upon conviction before a Magistrate, to a penalty not exceeding fifty rupees; and the property shall be confiscated.

46. If no sufficient goods or chattels belonging to a defaulter, or

Sale of property beyond limits of town, &c. being upon the premises in respect of which he is assessed or rated, can be found within the district in which the premises are situate, the Magistrate may issue his warrant to the nazir of his Court for the distress and sale of any personal property or effects belonging to the defaulter within any other part of the jurisdiction of the Magistrate, or for the distress and sale of any personal property belonging to the defaulter within the jurisdiction of any other Magistrate whatsoever; and such other Magistrate shall back the warrant so issued, and cause it to be executed, and the amount, if levied, to be remitted to the Magistrate issuing the warrant.

47. All goods and chattels, except tools or implements of trade,

All goods found on premises liable to sale. which may be found upon any premises in respect of which an arrear is due, shall be liable to be distrained for the recovery of such arrear. If the goods and chattels belong to any person other than the defaulter, the defaulter shall indemnify the owner of such goods and chattels from any damage he may sustain by reason of such distress or by reason of any payment he may make to avoid such distress or any sale under the same. Provided that no

But owner of goods to be indemnified by the defaulter.

distress shall be made for any arrears due under this Act, after the expiration of six calendar months

from the time when such arrears became due.

48. Every person who shall wilfully obstruct or molest any tax-

Penalty for obstructing tax-darogah in execution of duty.

darogah or any of his establishment, in the performance of their duties under this Act, or shall fraudulently conceal, remove or dispose of any of

his property for the purpose of avoiding a distress under the provisions of this Act, or shall knowingly assist any other person in so doing, shall be liable, on conviction before a Magistrate, to a penalty not exceeding fifty rupees.

49. The Magistrates shall receive and try all complaints preferred on oath or solemn affirmation against any tax-darogah or other person appointed under this Act for extortion, malversation, or other misconduct in the discharge of his duty. On proof of any such offence, the tax-darogah or other person as aforesaid shall be liable to dismissal from office, and to imprisonment, with or without labour, for a period not exceeding six months, and may also be compelled to refund any money corruptly or unduly exacted or received, and to deliver up any effects which may have been illegally distrained or sold, or the value thereof, or in default and until such delivery or refund be made, shall be liable to further imprisonment, with hard labour, for not more than six months. But nothing in this section shall be taken to prevent the Magistrate from committing any tax-darogah or other person as aforesaid for trial before the Sessions Court, or to limit the power of the Sessions Court in regard to the punishment of such offences under the general law.

Proviso.

50. The chaukidars, and the jemadars and inspectors appointed under this Act, shall exercise all the powers, and perform all the duties, and be subject to all the liabilities of police officers as prescribed in the general Regulations of the Bengal Code or Acts of the Government of India for the time being in force, so far as such powers, duties and liabilities are not inconsistent with, or otherwise expressly provided for by this Act. The chaukidars and jemadars and inspectors are in all respects subordinate to the police darogah of the thanna within the limits of which they may be employed.

51. Every chaukidar appointed under this Act shall wear a badge with a number, and the name of the city, town, place or division for which he is appointed, engraved thereon.

52. Every chaukidar and every jemadar and inspector appointed under this Act shall have power, without warrant, to apprehend and convey immediately to the nearest police station any person or persons taken in the act of committing any heinous offence, or whom he shall have just cause to suspect to be about to commit or to have committed a heinous offence, or against whom a hue and cry shall be raised.

Second.—He shall have power to prevent obstructions and nuisances on the roads and streets.

Third.—He shall give immediate intelligence to the police darogah of the resort to his division of any receivers of stolen goods, or of any robbers or other persons of notorious or suspected character, or of any circumstances likely to occasion a breach of the peace.

Fourth.—He may stop, examine, and if necessary detain, any person who shall be reasonably suspected at any time of having or conveying anything stolen, or who shall be found between sunset and sunrise lying or loitering in any high-way,

yard or other place, and unable to give a satisfactory account of himself and may convey such person to the nearest police station.

53. If a chaukidar or other police officer be unable to effect an arrest, he may require all persons present to assist him; and any person who refuses or neglects to comply with such requisition shall be liable, on conviction by a Magistrate, to a fine not exceeding fifty rupees, or to imprisonment not exceeding two months.

54. On the fifteenth day of each month, or on such other day not later than the fifteenth day of the month, as the Magistrate may appoint, the chaukidars and the jemadars and inspectors (if any) shall be mustered at the thana to which they are attached, and the police darogah or mohurrir of the thana shall there pay them the wages due to them up to the close of the preceding month, and shall at the same time take the receipt of each chaukidar in an official register of receipts prepared for the purpose; and the darogah, after signing the register in attestation of its correctness, shall transmit the same to the Magistrate.

55. Any chaukidar and any jemadar or inspector appointed under this Act, who is convicted of neglect of duty or misconduct, shall be liable to fine to an extent not exceeding half a month's wages, or to imprisonment for any period not exceeding six months.

56. The Magistrate may suspend or dismiss any officer appointed under this Act, whom he shall think remiss or negligent in the discharge of his duty, or otherwise unfit for the same.

57. All fines levied under this Act, shall be credited to the chaukidari fund and held available for the purposes of this Act.

58. *Repealed by Act X of 1872.*

59. All the proceedings of a Magistrate under this Act, except as otherwise specially provided, shall be subject to the control of the Commissioner of Circuit; and all the proceedings of the Commissioner of Circuit shall be subject to the control of the Local Government.

Act not to apply to town of Calcutta.

60. Nothing contained in this Act shall extend to the town of Calcutta.

61. Wherever in this Act, or in any appendix thereto, there is nothing in the context requiring a different interpretation—

the word "Magistrate" shall include a Joint Magistrate and any person lawfully exercising the powers of a Magistrate,

the word "house" shall include any shop or warehouse,

the word "bazaar" shall mean any place of trade where there is a collection of shops or warehouses,

the word "district" shall mean a city, town, bazaar, or union, or any division thereof,

the expression "police darogah" shall include any tahsildar or naib-tahsildar entrusted with police jurisdiction.

APPENDIX A.

To

[Here insert the names, places of abode, business, or other description of the punchayet.]

I do hereby require you, the punchayet appointed under Act XX of 1856, with all reasonable expedition, not exceeding (here insert a period to be fixed by the Magistrate) from the date hereof, to make out and forward to me, the undersigned Magistrate of the zillah of , a fair and equitable assessment upon the several occupiers of houses, shops, and buildings, in the (here describe the city, town, place or division), for the purpose of raising the sum of Rupees required for the maintenance of chaukidars for the year commencing on and other expenses authorized by Act XX of 1856. You shall regulate and determine the amount of assessment to be levied from every such occupier according to the circumstances and the property to be protected of each person. But the amount assessed in respect of any one house, shall not exceed Rupees (here insert the pay of a chaukidar of the lowest grade) * * *

[NOTE—Remainder of clause repealed by Act XXII of 1871.]

If the occupier of any house in the said district shall be unable, on the ground of poverty, to pay the assessment to which he is liable under this Act, you shall exempt him from the same; but the property occupied, together with the name and description of such occupier, shall be specified in the list, together with the ground of exemption.

If any house be let out in portions to different persons, or be let out to or occupied by lodgers or travellers, the person who shall so let the same, or who shall receive the rents or payments from such persons or lodgers or travellers, shall be deemed the occupier of such house and shall be assessed accordingly.

The assessment which you are hereby required to make shall specify the name of every occupier of property liable to be assessed, the name, trade, or business or other description of the person assessed, the annual assessment, and the quota payable monthly; and may be in the following form, or to the like effect:—

Property occupied.	Name of occupier.	Profession or business or other description.	Amount of monthly payment.
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APPENDIX B.

To

[Here insert the names, places, of abode, business, or other description of the punchayet.]

I do hereby require you, the punchayet appointed under Act XX of 1856, with all reasonable expedition, not exceeding (here insert a period to be fixed by the Magistrate) from the date hereof, to make out and forward to me, the undersigned Magistrate of the zillah of , a fair and equal rate upon the several occupiers of houses, shops, and buildings, and of grounds occupied for the purpose of trade or business, in the (here describe the city, town, place, or division) for the purpose of raising the sum of Rupees required for the maintenance of chaukidars for the year commencing on and other expenses authorized by Act XX of 1856. You shall regulate and determine the amount of the rate to be levied from every such occupier according to the annual value of property occupied.

The rent at which any such property may reasonably be expected to let for one year shall be deemed the annual value of such property. The rate shall be an equal per-centage, not exceeding five per cent., of such annual value.

Any person occupying ground for the purpose of trade is to be rated in respect thereof, but a person occupying ground for the purpose of cultivation or for depasturing cattle is not to be rated in respect thereof.

If the occupier of any house or ground in the said district shall be unable, on the ground of poverty, to pay the rate to which he is liable under this Act, you shall exempt him from the same; but the property occupied, together with the name and description of such occupier, shall be specified in the list, together with the ground of exemption.

If any house be let out in portions to different persons, or be let out to or occupied by lodgers or travellers, the person who shall so let the same, or who shall receive the rents or payments from such persons or lodgers or travellers, shall be deemed the occupier of such house and shall be rated accordingly.

The rate which you are hereby required to make shall specify the name of every occupier of property liable to be rated, the name, trade, or business or other description of the person rated, the annual rateable value of the property, the annual rate, and the quota payable monthly; and may be in the following form, or to the like effect:—

Property occupied.	Name of occupier.	Profession or business or other description.	Annual value of property.	Annual rate.	Amount of monthly payment.
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APPENDIX C.

An assessment (or rate, as the case may be), made for (here describe the city, town, village or other place or division for which the rate is made) upon the several occupiers of houses and other property in the said district, pursuant to Act XX of 1856, for the purpose of maintaining chaukidars for such district.

Property occupied.	Names of occupiers.	Profession or business.	Amount of monthly (or quarterly) assessment (or rate).
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Whereas the above assessment (or rate, as the case may be,) has been duly made pursuant to Act XX of 1856 and has been revised and settled by me, the undersigned Magistrate of the several persons whose names are included in the said assessment (or rate) are hereby required to pay the monthly (or quarterly) contributions set opposite to their names with regularity to the tax-darogah or other person appointed by the Magistrate to receive the same

* * * * *

(if the tax is to be collected quarterly, the months in which the payment is to be made must be specified), or in default thereof, any arrear that may be due will be realized, by distraint and sale of the personal effects of the defaulter, or of any goods and chattels which may be found on the premises in respect of which such defaulter is assessed (or rated) and such other proceedings adopted for the recovery of the same as are allowed by law.

Dated this day of Magistrate of

NOTE.—Part of this Appendix has been repealed by Act XXII of 1871.

APPENDIX D.

1	2	3	4	5	6	7	8	9	10	11
District.	Names of defaulters.	Amount of defaultation.	Amount, cost, or penalty.	Inventory of property seized under distress.	Date of distress.	Date of sale.	Property sold.	Amount realized on each article.	Purchaser's name.	Balance.

APPENDIX E.

Table of Fees payable in distrains under this Act.

Sum distrained for.										FEE.	
										Rs.	As.
Under 1 rupee	...	...	...	...	...	...	...	...	...	0	4
1 and under 3 rupees	...	...	...	...	...	...	...	...	...	0	8
3 " 5	...	...	...	...	...	...	...	...	...	1	0
5 " 10	...	...	...	...	...	...	...	...	...	1	8
10 " 15	...	...	...	...	...	...	...	...	...	2	0
15 " 20	...	...	...	...	...	...	...	...	...	2	8
20 " 25	...	...	...	...	...	...	...	...	...	3	0
25 " 30	...	...	...	...	...	...	...	...	...	3	8
30 " 35	...	...	...	...	...	...	...	...	...	4	0
35 " 40	...	...	...	...	...	...	...	...	...	4	8
40 " 45	...	...	...	...	...	...	...	...	...	5	0
45 " 50	...	...	...	...	...	...	...	...	...	5	8
50 " 60	...	...	...	...	...	...	...	...	...	6	0
60 " 80	...	...	...	...	...	...	...	...	...	7	8
80 " 100	...	...	...	...	...	...	...	...	...	9	0
Above 100	...	...	...	...	...	...	...	...	...	10	0

The above charge includes all expenses, except when peons are kept in charge of property distrained in which case three annas must be paid daily for each man.

ACT No. XI of 1857.*(Passed on the 30th May 1857).*

An Act for the prevention, trial and punishment of offences against the State.

Whereas it is necessary to make due provision for the prevention, trial and punishment of offences against the State ;
 Preamble. It is enacted as follows :—

1, 2. *Repealed by Act XVII of 1862.*

3. *Clause 1.*—Whenever the Executive Government of any presidency or place shall proclaim that any district subject to its Government is or has been in a state of rebellion, it shall be lawful for such Government to issue a commission for the trial of all persons who shall be charged with having committed within such district, after a day to be specified in the commission, any crime against the State, or murder, arson, robbery, or other heinous crime against person or property.

Clause 2.—The Commissioner or Commissioners authorized by any such Commission may hold a Court in any part of the said district mentioned in the commission, and may there try any person for any of the said crimes committed within any part thereof ; it being the intention of this Act, that the district mentioned in the commission shall, for the purpose of trial and punishment of any of the said offences, be deemed one district.

4. It shall be lawful for the Executive Government, by such commission, to direct that any Court held under the commission shall have power, without the assistance of assessors, to pass upon every person convicted before the Court of any of the aforesaid crimes any sentence warranted by law for such crimes ; and that the judgment of such Court shall be final and conclusive ; and that the said Court shall not be subordinate to the Sudder Court.

5. If a commission be issued under the authority of this Act, any Magistrate within the district which is described in the commission may commit persons charged with any of the aforesaid crimes within such district for trial before a Court to be held under this Act.

6. Nothing in this Act shall extend to the trial or punishment of any of Her Majesty's natural-born subjects born in British-born subjects or Europe, or of the children of such subjects.

7—10. *Repealed by Act XII of 1876.*

11. The word "Magistrate" in this Act shall include any person specially authorized by the Executive Government to exercise the powers vested in a Magistrate by this Act.

Interpretation. *NOTES.*—(a). This Act is declared to be in force throughout the whole of British India, except the Scheduled Districts, by Act XV of 1874. It has also been declared to be in force in certain of the Scheduled Districts of the Punjab (*vide* Notes (a) and (b) to Act XIV of 1874).

(b). The words and sections repealed by Act XII of 1876 have been omitted.

ACT No. XXI of 1857.*(Passed on the 10th July 1857).*

An Act to make better provision for the order and good government of the Station of Howrah.

* * * * *

10. Whoever, being the owner or occupier, or having the use of any house, room, or place, keeps or uses the same as a common gaming house; and whoever, being the owner or occupier of any house or room, knowingly and wilfully permits the same to be kept or used by any other person as a common gaming-house; and whoever has the care or management of, or in any manner assists in conducting, the business of any house, room, or place, so kept or used; and whoever advances or furnishes money for the purpose of gaming with persons frequenting such house, room, or place, shall be liable to a fine not exceeding two hundred rupees, or to imprisonment, with or without hard labor, for any term not exceeding three months.

11. Whoever is found in any such house, room, or place, playing or gaming with cards, dice, counters, money, or other instruments of gaming, or is found there present for the purpose of gaming, whether playing for any money, wager, stake, or otherwise, shall be liable to a fine not exceeding one hundred rupees, or to imprisonment, with or without hard labor, for any term not exceeding one month; and any person found in any common gaming-house during any gaming or playing therein, shall be presumed, until the contrary be proved, to have been there for the purpose of gaming.

12. If the Magistrate, upon information on oath and after such enquiry as he may think necessary, has reason to believe that any house, room or place is used as a common gaming-house, he may, by his warrant, give authority to any superior officer of police to enter, with such assistance as may be found necessary, by night or by day, and by force if necessary, any such house, room, or other place; and to take into custody all persons whom he finds therein, whether or not then actually gaming; and to seize all instruments of gaming, and all monies, and securities for money, and articles of value reasonably suspected to have been used or intended to be used for the purpose of gaming, which are found therein; and to search all parts of the house, room or place which he shall have so entered, when he has reason to believe that any instruments of gaming are concealed therein, and also the persons of those whom he so takes into custody: and to seize and take possession of all instruments of gaming found upon such search.

13. On conviction of any person for keeping any such common gaming-house or being present therein for the purpose of gaming, all the instruments of gaming found therein shall be destroyed by order of the Magistrate, who may also order all or any of the securities for money, and other articles seized, not being instruments of gaming, to be sold and converted into money, and the proceeds thereof, with all monies seized therein, to be forfeited; or, in his discretion, may order any part thereof to be returned to the persons appearing to have been severally thereunto entitled.

14. The Magistrate may direct any portion, not exceeding one-fourth, of any fine which shall be levied under Sections 10 and 11 of this Act, or any part of the monies or proceeds of articles seized and ordered to be forfeited under Section 13, to be paid to an informer.

15. A police officer may apprehend without warrant any person found gaming with cards, dice, counters, money, or other instruments of gaming, in any public street, place, or thoroughfare; and such person shall be liable to a fine not exceeding twenty rupees, or to imprisonment, with or without hard labor, for any term not exceeding one month; and such instruments of gaming and money shall be forfeited.

* * * * *

NOTE.—The Lieutenant-Governor sanctioned the extension to the Punjab of the spirit of Sections 10 to 15 of Act XXI of 1857. This fact was communicated to all Commissioners by Judicial Commissioner's Circular No. 151, dated 30th December 1859, which obtained the force of law under the Indian Councils Act.

These sections were afterwards embodied in Act III of 1867 (*an Act to provide for the punishment of public gambling and the keeping of common gaming-houses in the North-Western Provinces of the Presidency of Fort William, and in the Punjab, Oudh, the Central Provinces and British Burmah*). But that Act, with the exception of Sections 13, 17 and 18 (which are declared applicable to the whole province) is only in force in those places and towns in the Punjab to which it has been specially extended by Notification published in the Official Gazette; and from the date of such extension, so much of any rule having the force of law which shall be in operation in the territories to which such extension shall have been made, as shall be inconsistent with or repugnant to any section so extended, shall cease to have effect in such territories.—(Section 2 of Act III of 1867).

In towns and places, therefore, to which Act III of 1867 has not been extended, the above sections of Act XXI of 1857, so far as they are not inconsistent with or repugnant to Sections 13, 17 and 18 of Act III of 1867, may be considered still in force, and may be followed until the provisions of the latter Act have been formally extended thereto.

ACT No. XXV of 1857.

(*Passed on the 8th August 1857*).

An Act to render Officers and Soldiers in the Native Army liable to forfeiture of property for Mutiny, and to provide for the adjudication and recovery of forfeitures of property in certain cases.

Whereas it is expedient to render officers and soldiers in the Native Army, who shall be convicted of mutiny, subject to the forfeiture of all their property, and to provide for the adjudication and recovery of forfeitures in certain cases; It is enacted as follows:—

1. *Repealed by Act V of 1869.*

2. If any person who shall have committed treason or any offence for which, by this Act, or Act XI of 1857, or Act XIV of 1857, or Act XVI of 1857, his property is declared to be forfeited, shall have been killed, or shall have died, or shall have escaped out of the territories of the East India Company, before he shall have been convicted of the offence, or cannot after diligent search be

Adjudication of forfeiture in case of death or escape of offender before conviction of an offence for which property is liable to be forfeited.

found, any Court or other authority which might have tried such offender, if he could have been brought to trial, shall, upon the application of the Magistrate or other officer authorized by Government to make such application, hold an enquiry, and on proof that the person charged with having committed the offence was guilty thereof, and that he is dead, or has escaped out of the territories of the East India Company, or cannot after diligent search be found, shall adjudge that all the property of such offender shall be forfeited to Government.

NOTE.—Acts XIV and XVI of 1857 have been repealed by Act VIII of 1868.

3. The forfeiture, whether upon conviction of such an offence as afore-

Forfeiture to extend to all property possessed by the offender at the time of the commission of the offence.

said, or upon an adjudication of forfeiture under this Act, shall extend to all property and effects of or to which the offender shall have been possessed or entitled, either at the time of committing the offence,

or at the time of the conviction or of the adjudication of forfeiture, or at any intermediate time; and no sale, alienation, or other disposition of such property, made subsequently to the commission of the offence, or made at any time with the fraudulent intention of preventing a forfeiture, shall have any effect against the right of Government to the forfeiture. Provided that nothing in this section contained shall affect any

Proviso.

transferree of any negotiable security, who shall prove that he acquired the same in good faith and

with due caution for valuable consideration.

4. All immovable property of the offender, which shall be alienated

Forfeiture of land alienated without valuable consideration before the commission of the offence.

after the passing of this Act, and before the commission of any offence specified in Section 2, shall be forfeited in the same manner as if no such alienation had been made, unless the alienation be made in good faith and for valuable consideration, or unless the same shall have been made and registered more than three months before the commission of the offence.

Unless alienation made and registered three months before.

5. The Court, or other authority by which the offender shall be con-

Court may specify in the conviction the day on which the offence was committed.

victed or the forfeiture shall be adjudged, may specify in the conviction or adjudication the day on which the offence was committed, if it can be ascertained.

6. In any proceeding concerning property alleged to have been forfeited,

What matters shall be proved by the conviction or adjudication.

the conviction shall be conclusive evidence that the offence was committed, and (if the day be specified in such conviction) that the offence was committed

on that day; if the day be not specified, the conviction shall be *prima facie* evidence that the offence was committed on the day mentioned in the charge. In any such proceeding, an adjudication of forfeiture under this Act shall be *prima facie* evidence of the commission of the offence, and (if the day be specified in the adjudication) that the offence was committed on that day; if the day be not specified, the adjudication shall be *prima facie* evidence that the offence was committed on the day mentioned in the charge. Any adjudication under this Act shall be filed with and may be proved in the same manner as the records of the principal Court of criminal jurisdiction of the district.

7. After the conviction or adjudication, the Collector or other chief

Procedure for the recovery of forfeited property. officer appointed by Government for the collection of revenue, or any other officer whom the Government may specially appoint, may seize and take possession of the forfeited property: if he require the assistance of a Court to enable him to obtain possession of any such property by reason of any dispute respecting the title to the same or for any other cause, the principal civil Court of original jurisdiction of the district in which the property is situate may, upon the production of a certified copy of the conviction or adjudication, hear and determine in a summary manner upon petition any matter in dispute relating to such property. Any order which may be passed by the Court shall not be subject to appeal; but the party against whom the same may be given, by any Court other than one of Her Majesty's Supreme Courts of Judicature, shall be at liberty to bring a suit to establish his right at any time within one year from the date of the order.

8. In case any person whose property shall have been so adjudged to

Forfeited property or the proceeds to be restored upon proof that escape was not for the purpose of evading justice. be forfeited shall within one year after the seizure of any part of his property as a forfeiture surrender himself, and shall upon trial before a competent Court be acquitted of the offence, his property or the proceeds thereof shall be restored upon proof, to the satisfaction of the Court, that he did not escape or keep out of the way for the purpose of evading justice.

9. Repealed by Act IX of 1871.

10. In case it shall appear to a Magistrate that there is reasonable

Power to secure property before forfeiture in certain cases. ground to suppose that any person is guilty of any offence specified in Section 2 of this Act, and that any property liable to forfeiture for the offence is likely to be made away with, it shall be lawful for the Magistrate to attach such property and secure the same until the trial of the offender or until an enquiry for the purpose of adjudication under this Act shall be had.

Interpretation.

11. The word "Magistrate" in this Act shall include any officer competent to commit for trial for any offence specified in Section 2 of this Act.

NOTE.—This Act is declared to be in force throughout the whole of British India, except the Scheduled Districts, by Act XV of 1874. It has also been declared to be in force in certain of the Scheduled Districts of the Punjab, but not in Lahul (*vide* Notes (a) and (b) to Act XIV of 1874).

ACT No. III of 1858.

(Passed on the 23rd January 1858).

An Act to amend the law relating to the arrest and detention of State Prisoners.

Whereas doubts have been entertained whether State prisoners confined under Regulation II, 1819 of the Madras Code, or Regulation XXV, 1827 of the Bombay Code, can

Preamble. be lawfully detained in any fortress, jail, or other place within the local limits

of the jurisdiction of the Supreme Courts of Judicature at Madras and Bombay respectively; and it is expedient that such doubts be removed, and that the powers of the said Regulations and of Regulation III, 1818 of the Bengal Code be extended: It is enacted as follows:—

1. *Repealed by Act XIV of 1870.*

2. The provisions of Regulation III, 1818 of the Bengal Code, Regulation II, 1819 of the Madras Code, and Regulation XXV, 1827 of the Bombay Code, as altered by Section 1 of this Act, relating to the arrest and confinement of persons as State prisoners, shall be in force within the local limits of the jurisdiction of the Supreme Courts of Judicature at Calcutta, Madras and Bombay respectively.

Regulations relating to the arrest and confinement of State prisoners in the three presidencies, to be in force within Supreme Courts' jurisdiction.

Powers for the better custody of State prisoners, vested by Act XXXIV of 1850 in the Governor-General in Council, may be exercised by the Governors in Council of Fort St. George and Bombay respectively.

3. All powers for the better custody of State prisoners which by virtue of Act XXXIV of 1850 are vested in the Governor-General in Council, shall be possessed and may be exercised by the Governor in Council of Fort St. George and the Governor in Council of Bombay respectively, for the better custody of State prisoners arrested within their respective presidencies.

4. Any person arrested as a State prisoner before the passing of this Act, or now confined as a State prisoner by the order or under the warrant of the Governor-General in Council, or of the Governor in Council of Fort St. George, or of the Governor in Council of Bombay respectively, shall be deemed to have been lawfully arrested and to be lawfully confined.

Arrest, &c., made before the passing of this Act legalized.

5. The Governor-General in Council may order the removal of any State prisoner, confined under the provisions of any of the said Regulations as amended and extended by this Act, from any fortress, jail, or place in which he may be confined within either of the said presidencies, to any other fortress, jail, or place of confinement within the territories in the possession and under the government of the East India Company.

Removal of State prisoners from one place of confinement to another.

NOTES.—(a). This Act is declared to be in force throughout the whole of British India, except the Scheduled Districts, by Act XV of 1874. It has also been declared to be in force in certain of the Scheduled Districts of the Punjab (*vide* Notes (a) and (b) to Act XIV of 1874).

(b). See Regulation III of 1818 and Act XXXIV of 1850.

ACT No. XXXV of 1858.

(Passed on the 14th September 1858).

An Act to make better provision for the care of the estates of lunatics not subject to the jurisdiction of the Supreme Courts of Judicature.

Whereas it is expedient to make better provision for the care of the estates of lunatics not subject to the jurisdiction of the Supreme Courts of Judicature; and to prescribe general rules by which the state of mind of persons not subject to such

Preamble.

jurisdiction, who are alleged to be lunatic, may be enquired into and ascertained; It is enacted as follows:—

1. *Repealed by Act XIV of 1870.*

2. Whenever any person not subject to the jurisdiction of the

Civil Court on application may institute enquiry when a person possessed of property is alleged to be a lunatic.

Supreme Courts, who is possessed of property, is alleged to be a lunatic, the civil Court, within whose jurisdiction such person is residing, may, upon such application as is hereinafter mentioned, institute an enquiry for the purpose of ascertaining whether such person is or is not of unsound mind and incapable of managing his affairs.

NOTE.—On a reference from the Judicial Commissioner, as to whether a Civil Court in the Punjab had jurisdiction to institute an enquiry for the purpose of ascertaining whether a person, being a European British subject, is or is not of unsound mind, the Advocate-General of Calcutta expressed the following opinion:—"I may in the first place observe that I entirely concur with the Judicial Commissioner in thinking that Mrs. W., the wife of the lunatic, had no *locus standi* in Court. The question whether Mrs. W. should take proceedings in lunacy in the High Court depends on the residence of her husband. By the 10th Section of the Charter the High Court has the same jurisdiction in lunacy as that which the Supreme Court had, and therefore if the lunatic is resident within the Presidency of Fort William (which, by the way, for the purpose of jurisdiction still includes Delhi) the proceedings in lunacy must be taken in the High Court. But if Mr. W. is resident in the Punjab he would not have been civilly subject to the jurisdiction of the Supreme Court, and consequently the proceeding must be taken in the Civil Court within whose jurisdiction he resides."—(Letter dated 6th October 1864, from the Advocate-General, Calcutta, to the Secretary to Government, Punjab).

3. Application for such enquiry may be made by any relative of the

Application by whom to be made.

alleged lunatic or by any public curator appointed under Act XIX of 1841, or by the Government pleader, or if the property of the alleged lunatic consist in whole or in part of land or any interest in land, by the Collector of the district in which it is situate. If the property or any part thereof be of such a description as by the law in force in any presidency where such property is situate would subject the proprietor, if disqualified, to the superintendence of the Court of Wards, the application may be made by the Collector on behalf of the Court of Wards.

NOTE.—See Act XXXVI of 1858, Section 8, Clause 3.

4. When the civil Court is about to institute any such enquiry as

Notice of enquiry to be given to lunatic.

aforesaid, it shall cause notice to be given to the alleged lunatic of the time and place at which it is proposed to hold the enquiry. If it shall appear that the alleged lunatic is in such a state that personal service on him would be ineffectual, the Court may direct such substituted service of the notice as it shall think proper. The

Service of notice.

Court may also direct a copy of such notice to be served upon any relative of the alleged lunatic.

5. The civil Court may require the alleged lunatic to attend at such

Court may require attendance of, and may authorize persons to have access to lunatic for the purpose of examination.

convenient time and place as it may appoint for the purpose of being personally examined by the Court or by any person from whom the Court may desire to have a report of the mental capacity and condition of such alleged lunatic. The Court may, likewise make an order authorizing any person or persons therein named to have access to the alleged lunatic for the purpose of a personal examination.

6. The attendance and examination of the alleged lunatic under the

Rule respecting attendance and examination where the alleged lunatic is a woman of rank.

provisions of the last preceding section, shall, if the alleged lunatic be a woman who, according to the manners and customs of the country, ought not to be compelled to appear in public, be regulated by the rules in force for the examination of such persons in other cases.

7. The civil Court, if it think fit, may appoint two or more persons

Appointment of assessors.

to act as assessors to the Court in the said enquiry. Upon the completion of the enquiry, the Court shall determine whether the alleged lunatic is or is not of unsound mind, and may make such order as to the payment of the costs of the enquiry by the person upon whose application it was made, or out of the estate of the alleged lunatic if he be adjudged to be of unsound mind, or otherwise, as it may think proper.

Order of Court.

8. If the alleged lunatic reside at a distance of more than fifty miles

Issue of commission to a subordinate Court.

from the place where the civil Court to which the application shall have been made is held, the said Court may issue a commission to any subordinate Court, to make the enquiry, and thereupon the said subordinate Court shall conduct the enquiry in the manner hereinbefore provided. On the completion of the enquiry

Report of subordinate Court.

Order of civil Court.

the subordinate Court shall report its proceedings with the opinions of the assessors, if assessors have been appointed, and its own opinion on the case; and thereupon the civil Court shall make such order in the case as it may think proper.

9. When a person has been adjudged to be of unsound mind and

Management of lunatic's estate, if consisting of property subject to Court of Wards.

In all other cases.

incapable of managing his affairs, if the estate of such person or any part thereof consist of property which by the law in force in any presidency subjects the proprietor, if disqualified, to the superintendence of the Court of Wards, the Court of Wards shall be authorized to take charge of the same. In all other cases, except as otherwise hereinafter provided, the civil Court shall appoint a manager of the estate. Any near relative of the lunatic, or the public curator, or, if there be no public curator, any other suitable person, may be appointed manager.

10. Whenever a manager of the estate of a lunatic is appointed by

Appointment of guardian by civil Court.

the civil Court, the Court shall appoint a fit person to be guardian of the person of the lunatic. The manager, unless he be the public curator, may be appointed guardian. Provided always that the legal heir of the lunatic shall not in any case be appointed guardian of his person.

11. If the estate consist in whole or in part of land or any interest in

Court may direct Collector to take charge of lunatic's estate if consisting of land not subject to Court of Wards.

Proceedings of Collector subject to control of superior revenue authorities.

land not subject to the jurisdiction of the Court of Wards, the civil Court, instead of appointing a manager, may direct the Collector to take charge of the estate, and thereupon the Collector shall appoint a manager of the property and a guardian of the person of the lunatic. All the proceedings of the Collector in the charge of estates under this Act shall be subject to the control of the superior revenue authorities.

12. If the person appointed to be manager of the estate of a lunatic, or the person appointed to be guardian of a lunatic's person, shall be unwilling to discharge the trust gratuitously, the Court or the Collector, as the case may be, may fix such allowance or allowances to be paid out of the estate of the lunatic as, under the circumstances of the case, may be thought suitable.

13. The person appointed to be guardian of a lunatic's person shall have the care of his person and maintenance. When a distinct guardian is appointed, the manager shall pay to the guardian such allowance as shall be fixed by the Court or Collector as the case may be, for the maintenance of the lunatic and of his family.

14. Every manager of the estate of a lunatic appointed as aforesaid may exercise the same powers in the management of the estate as might have been exercised by the proprietor if not a lunatic; and may collect and pay all just claims, debts and liabilities due to or by the estate of the lunatic. But no such manager shall have power to sell or mortgage the estate or any part thereof, or to grant a lease of any immoveable property for any period exceeding five years, without an order of the civil Court previously obtained.

15. Every person appointed by the civil Court or by the Collector to be manager of the estate of a lunatic shall, within six months from the date of his appointment, deliver in Court or to the Collector, as the case may be, an inventory of the landed property belonging to the lunatic, and of all such sums of money, goods, and effects, as he shall receive on account of the estate, together with a statement of all debts due by or to the same. And every such manager shall furnish to the Court or to the Collector annually, within three months of the close of the year of the era current in the district, an account of the property in his charge, exhibiting the sums received and disbursed on account of the estate and the balance remaining in his hands. If any relative of the lunatic, or any public officer, by petition to the Court, shall impugn the accuracy of the said inventory and statement, or of any annual account, the Court may summon the manager, and enquire summarily into the matter and make such order thereon as it shall think proper; or the Court, at its discretion, may refer any such petition to any subordinate Court or to the Collector if the manager was appointed by the Collector.

16. All sums received by a manager on account of any estate in excess of what may be required for the current expenses of the lunatic or of the estate, shall be paid into the public treasury on account of the estate, and may be invested from time to time in the public securities.

17. It shall be lawful for any relative of a lunatic to sue for an account from any manager appointed under this Act, or from any such person after his removal from trust or office, or from his personal representative in case of his death, in respect of any estate then or formerly under his care or management, or of any sums of money or other property received by him on account of such estate.

18. The civil Court, for any sufficient cause, may remove any manager appointed by the Court, not being a public curator, and may appoint such curator or any other fit person in his room, and may compel the person so removed to make over the property in his hands to his successor, and to account to such successor for all monies received or disbursed by him. The Court may also, for any sufficient cause, remove any guardian appointed by the Court. In like manner the Collector, for any sufficient cause, may remove any manager or guardian appointed by the Collector; and the Court, on the application of the Collector, shall compel any manager so removed to deliver his accounts and the property in his hands.

19. The civil Court may impose a fine not exceeding five hundred rupees on any manager of the estate of a lunatic who wilfully neglects or refuses to deliver his accounts or any property in his hands within the prescribed time or a time fixed by the Court, and may realize such fine by attachment and sale of his property under the rules in force for the execution of decrees of Court, and may also commit the recusant to close custody until he shall deliver such accounts or property.

20. If it appears to the civil Court, having regard to the situation and condition in life of the lunatic and his family, and the amount and description of his property, to be unnecessary to appoint a manager of the estate as hereinbefore provided, the Court may, instead of appointing such manager, order that the property, if money, or if of any other description the produce thereof, when realized, be paid to such person as the Court may think fit, to be applied for the maintenance of the lunatic and his family.

21. When any person has been adjudged to be of unsound mind and incapable of managing his affairs, if such person or any other person acting on his behalf or having or claiming any interest in respect of his estate, shall represent by petition to the civil Court, or if the Court shall be informed in any other manner, that the unsoundness of mind of such person has ceased, the Court may institute an enquiry for the purpose of ascertaining whether such person is or is not still of unsound mind and incapable of managing his affairs. The enquiry shall be conducted in the manner provided in Section 4 and the four following sections of this Act; and if it be adjudged that such person has ceased to be of unsound mind and incapable of managing his affairs, the Court shall make an order for his estate to be delivered over to him, and such order shall be final.

22. Except as otherwise herein provided, all orders made by a civil Court or by any subordinate Court under this Act, shall be open to appeal under the rules in force for appeals in miscellaneous cases.

23. The word "lunatic," as used in this Act, unless the contrary appears from the context, shall mean every person found by due course of law to be of unsound mind

Removal of manager or guardian by Civil Court.

Removal by Collector.

Manager refusing to furnish accounts may be fined by the Court, &c.

Court may in certain cases apply property for lunatic's maintenance without appointing any manager.

Court may institute enquiry to ascertain whether a person has ceased to be of unsound mind.

And may order estate to be restored.

Orders to be open to appeal.

Interpretation.

"Lunatic."

"Civil Court."

Gender.

and incapable of managing his affairs. The expression "Civil Court" shall mean the principal Court of original jurisdiction in the district. Words importing the masculine gender shall include females.

NOTE.—This Act is declared to be in force throughout the whole of British India, except the Scheduled Districts, by Act XV of 1874. It has also been declared to be in force in certain of the Scheduled Districts of the Punjab (*vide* Notes (a) and (b) to Act XIV of 1874).

ACT No. XXXVI of 1858.

(Passed on the 14th September 1858).

An Act relating to Lunatic Asylums.

Whereas it is expedient to provide for the reception and detention of lunatics in asylums established for that purpose ;
Preamble. It is enacted as follows :—

1. The Executive Government of any presidency or place, with the sanction of the Governor-General of India in Council, may establish asylums for the reception and detention of lunatics at such places within the limits of the said Government as may be deemed proper. Any such Executive Government may also, if it think fit, grant licenses to any private persons for the establishment of such asylums within the said limits, and may withdraw such licenses.

2. The management of every lunatic asylum and the care and custody of its inmates shall be regulated according to such rules as shall from time to time be sanctioned by the Executive Government. The Executive Government shall appoint for every asylum not less than three visitors, one of whom at least shall be a medical officer. The Inspector of Jails (where such office exists) shall be a visitor *ex-officio* of all the asylums within the circle of his inspection.

NOTE.—The provisions of this Act were extended to the Punjab and its dependencies by Notification No. 221, dated 25th March 1862, and the following officers appointed visitors of the Lahore Lunatic Asylum :—

The Commissioner of Lahore.

The Deputy Commissioner of Lahore.

The Civil Surgeon of Lahore.

The Inspector-General of Prisons, Punjab.

(*Punjab Gazette of 29th March 1862, page 172*).

The Senior Assistant Commissioner, Lahore.

The District Superintendent of Police, Lahore.

(*Notification No. 406, dated 1st February 1873—Punjab Gazette of 6th idem*).

Under the same section the Lieutenant-Governor has appointed the following officers to be visitors of the Lunatic Asylum at Delhi :—

The Commissioner of Delhi.

The Deputy Commissioner of Delhi.

The Civil Surgeon of Delhi.

The Inspector-General of Prisons (*ex-officio*).

(Notification No. 1343, dated 12th May, 1868—*Punjab Gazette of 21st idem*, page 501).

The Senior Assistant Commissioner, Delhi.

The District Superintendent of Police, Delhi.

(Notification No. 406, dated 1st February 1873—*Punjab Gazette of 6th idem*).

To be additional visitors :

The Divisional Judges, Delhi.

The District Judge, Delhi.

(No. 100, dated 17th February 1885—*Punjab Gazette of 19th idem*, Part I, page 103).

3. Two or more of the visitors, one of whom shall be a medical officer,

Monthly inspection by visitors.

shall, once at the least in every month, together inspect every part of the asylum or asylums of which they are visitors, and see and examine, as far as circumstances will permit, every lunatic therein, and the order and certificate for the admission of every lunatic admitted since the last visitation of the visitors; and shall enter in a book to be kept for that purpose any remarks which they may deem proper in regard to the management and condition of the asylum and the lunatics therein.

4. It shall be the duty of every darogah or district police officer to

Wandering and dangerous lunatics to be sent to the Magistrate.

apprehend and send to the Magistrate all persons found wandering at large within his district who are deemed to be lunatics, and all persons believed to be dangerous by reason of lunacy.

Certificate and order for reception in asylum.

Whenever any such person as aforesaid is brought before a Magistrate, the Magistrate, with the assistance of a medical officer, shall examine such person and if the medical officer shall sign a certificate in the Form A in the schedule to this Act, and the Magistrate shall be satisfied on personal examination or other proof that such person is a lunatic and a proper person to be detained under care and treatment, he shall make an order for such lunatic to be received into the asylum established for the division in which the Magistrate's jurisdiction is situate, or, if such lunatic is not a native of the country and the circumstances of the case so require, into a lunatic asylum at the presidency; and shall send the lunatic in suitable custody to the asylum mentioned in such order. Provided that,

In certain cases, a lunatic may be committed to the care of his friends or relatives.

if any friend or relative of any lunatic, who is believed to be dangerous, shall undertake in writing to the satisfaction of the Magistrate that such lunatic shall be properly taken care of, and shall be prevented from doing injury to himself or others, the Magistrate, instead of sending him to an asylum, may make him over to the care of such friend or relative. Provided also that, if any such friend or

Or sent to a licensed asylum.

relative shall desire that the lunatic may be sent to a licensed asylum instead of the public asylum of the division, and shall engage in writing to the satisfaction of the Magistrate to pay the expenses which may be incurred for the lodging, maintenance, medicine, clothing, and care of the lunatic in such asylum, the Magistrate may send the lunatic to the licensed asylum mentioned in the engagement.

NOTES.—(a). "I am directed to request that the attention of District Officers and Civil Surgeons may be called to Notification* of this Government, No. 2888, dated 29th November 1859, published in the Supplement to the *Punjab Gazette of 30th idem*, and to the provisions of Act XXXVI of 1858 (relating to Lunatic Asylums), especially Section 4; and to request

*See Note (b) to Section 7.

that on every occasion of a patient being sent to a Lunatic Asylum for treatment, the provisions of the Act may be carefully observed and the particulars required by the Notification of 1859 supplied so far as they may be procurable."—(*Circular No. 20—1344, dated 12th May 1868, from Secretary to Government Punjab to all Commissioners*).

(b). From—Officiating Secretary to the Government of India, Home Department,

To—The Officiating Secretary to Government, Punjab.

A case has recently occurred in which a European, who came to this country as a gentleman's servant, was sent to the Bhowanipore Lunatic Asylum under the provisions of Section 4 of Act XXXVI of 1858.* On arrival there he was found not to be insane, but merely to be suffering from intemperance; hence his journey to Bhowanipore and detention in the asylum there have caused needless expense to Government.

2. I am now directed to forward the accompanying orders † by the Government of India for regulating the admission of lunatics into asylums, and I am to request that the restrictions contained in paragraphs 2, 3 and 4 in regard to such admission may in future be carefully attended to.

† To Bengal Government, No. 179, dated 25th March 1876.

No. 179, dated 25th March 1876.

From—Officiating Secretary to the Government of India, Home Department,

To—The Secretary to the Government of Bengal, Judicial Department.

I am directed to acknowledge your letter No. 631, dated the 17th ultimo, and in reply to say that, under the provisions of Section 1 of Act XXXVI of 1858, the Governor-General in Council is pleased to sanction the establishment of a Lunatic Asylum at Hazaribagh, and to approve of his Honor the Lieutenant-Governor's proceedings in the matter, on the clear understanding that the orders ‡ of the Government of India, dated 22nd January 1869 and 28th January last, will regulate the class of lunatics to be received and maintained in this Asylum.

‡ Home Department No. 454, dated the 22nd January 1869, Home Department No. 41, dated the 28th January 1870.

2. I am to express a hope that the Government of Bengal have not lost sight of the necessary restrictions which the orders above mentioned prescribe. The Government of India are not prepared to admit that it is the duty of the State to provide everywhere a certain amount of asylum accommodation sufficient for the assumed lunatic population of the country, irrespective of the fact whether the lunatics themselves are collected by the means which the law provides, or whether proper precautions have been taken to see that the law itself is carefully administered, and not stretched to its extreme limits. The tendency among public officers is to admit into asylums, from a spirit of compassion, as many lunatics as the asylum can contain: whereas it is believed that the average number of patients in the Lunatic Asylum at Bhowanipore was considerably reduced in 1861-62 by the enforcement of two simple rules, (1) not to accept as lunatics persons suffering only from the effects of intoxicating drugs or spirits; (2) not to receive without payment lunatics whose friends are able to pay for their maintenance.

3. It is unnecessary and unwise to go to the extent of admitting into Government asylums and maintaining at the public expense all the insanes that are presented for admission. Persons suffering from the temporary results of sickness, intemperance or debauchery, and those whom their friends ought to support, should be kept out of public asylums. Many insanes are, as a matter of fact, well taken care of by their friends, better indeed and with more tenderness than they can be ordinarily tended at a Government asylum; whereas others, and especially those who are but partially insane and harmless, are best left alone.

4. While therefore the Government of India approve of large central asylums, such as that now established at Hazaribagh, in preference to small lunatic asylums scattered over the country and less amenable to proper supervision and control, it is only on the understanding that the accommodation provided by the State is rigidly restricted to those for whom it is intended. (*Punjab Government Circular, No. 13—673, dated 14th September 1877*).

(c). READ.—Replies of Commissioners to Circular No. 255, dated 11th February last, asking their opinion on a proposal that the cost of maintaining non-criminal lunatics sent from different parts of the province to the Lunatic Asylums at Lahore and Delhi should as a rule, be defrayed out of the funds of the District or Municipality from which such patients are sent.

REMARKS.—From the correspondence above cited it appears to be generally admitted that as a rule the cost of lunatics, other than criminal lunatics, detained in the Lahore, Delhi and other Government Asylums is a fair charge, in the first instance, against the District or Municipality to which the lunatic belongs,—the District or Municipal Commissioner being left, wherever practicable, to recover the amount from the relatives of the lunatic responsible for his maintenance.

2. Accordingly from the 1st April next, such charges for maintenance of lunatics in the Asylums as are payable from district funds will be deducted from the annual allotments made to District Committees; and the necessary payments for the same purpose from the fund of Municipal Committees in the hands of Government will be credited to the Provincial Fund,—unless the District or Municipal Committee, as the case may be, is exempted specially or generally, by order of the Local Government, from payment of the charge. The adjustments will be made by the Accountant-General on information to be supplied to him annually by the officers in charge of the Lunatic Asylum.—(*Punjab Government Circular, No. 36—1595, dated 17th August 1875*).

5. If it shall appear to the Magistrate, on the report of a police officer or the information of any other person, that any person within the limits of his jurisdiction deemed to be a lunatic is not under proper care and control, or is cruelly treated or neglected by any relative or other person having the charge of him, the Magistrate may send for the supposed

lunatic, and summon such relative or other person as has or ought to have the charge of him; and if such relative or other person be legally bound to maintain the supposed lunatic, the Magistrate may make an order for such lunatic being properly cared for and treated, and, if such relative or other person shall wilfully neglect to comply with the said order, may commit him to jail for a period not exceeding one month. If there be no person legally bound to maintain the supposed lunatic, or if the Magistrate

If no person bound to maintain him, Magistrate may make an order for his reception in asylum.

think fit so to do, he may proceed as prescribed in the last preceding section, and upon being satisfied in manner aforesaid that the person deemed to be a lunatic is a lunatic and a proper person to be detained under care and treatment, may make an order for his reception into such asylum as aforesaid. It shall be the duty of every darogah or district police officer to report to the Magistrate every such case of neglect or cruel treatment as aforesaid which may come to his

Darogah to report neglect.

knowledge.

6. All acts which the Magistrate is authorized or required to do by the two last preceding sections, may be done in the presidency towns by the Commissioner of Police; and all duties which a darogah or district police officer is authorized or required to perform, may be performed in any of the said towns by an officer of the police force not below the rank of inspector.

NOTE.—The words repealed by Act XVI of 1874 have been omitted.

6 A. (1) Where a person found wandering at large who is deemed to be a lunatic, or where a person believed to be dangerous by reason of lunacy, is apprehended and sent to the Magistrate or the Commissioner of Police, or where, on report or information that a person deemed to be a lunatic is not under proper care and control or is cruelly treated or neglected, the Magistrate or the Commissioner of Police sends for him and then determines to proceed as prescribed in Section 4 of this Act, the Magistrate or the Commissioner of Police, on the request of the medical officer, may, by order in writing, authorise the detention of the supposed lunatic for such time, not exceeding ten days, as, in the opinion of the Magistrate or the Commissioner of Police, may be necessary to enable the medical officer to form an opinion on the question whether or not the supposed lunatic is a person with respect to whom a certificate in the Form A in the schedule to this Act ought to be signed.

Detention of supposed lunatics under observation.

(2) If the medical officer certifies further detention than has been authorised under sub-section (1) to be necessary to enable him to form his opinion on that question, the Magistrate or the Commissioner of Police may from time to time, by order in writing, authorise such further detention as he deems to be necessary:

Provided that a supposed lunatic shall not be detained for the purpose of this section for a longer time than fourteen days from the date on which the first order authorising his detention for that purpose is made.

(3) The Executive Government may from time to time make rules as to the place of detention, and the care and treatment of supposed lunatics detained under this section.

NOTE.—The above section has been added by Act XVIII of 1836, Section 1.

7. Except as otherwise ~~hereinbefore~~ provided, no person shall be received into a lunatic asylum in any presidency town without an order under the hand of some person in the Form B in the schedule to this Act, together with such statement of particulars as is contained in the said Form B: nor unless such person has been found lunatic by inquisition or under an enquiry directed by an order of one of the Courts of Judicature established by Royal Charter, without the medical certificate, containing the particulars in Form A in the schedule to this Act, of two persons, each of whom shall be a physician or surgeon and one of whom shall be a presidency surgeon or a surgeon in the employment of the Government. When such order is presented, the visitors or manager of the asylum, before admitting the lunatic into the asylum, may require the friends of the said lunatic to engage to pay the expenses which may be incurred for the lodging, maintenance, clothing, medicine, and care of the lunatic, unless it shall appear to the said visitors that they have not sufficient means of doing so.

NOTES.—(a). The attention of the Lieutenant-Governor having been directed to a complaint made by a Civil Surgeon that persons taken into custody as lunatics by the police and brought before him by the order of a Magistrate appeared sometimes to have been arrested on the weakest possible evidence of their insanity, the usual form of questions being sometimes almost blank, and the policeman in charge being utterly ignorant of the circumstances or antecedents of the supposed lunatic, His Honor has directed that where lunatics are placed under restraint at the instigation of friends, the statements of these should be recorded, as also the deposition of the police officers who make the arrest, and every officer whose duty it is to forward lunatics to the Asylum should, in the interests of humanity, take care that every safeguard enjoined to protect the public from hasty or malicious arrest is rigidly observed.—(Punjab Government Circular No. 37—1774, dated 17th May 1872).

(b). The Lieutenant-Governor has also directed that when any patient is sent for treatment to the Lahore Lunatic Asylum, a proper history and statement of his case should be sent with him, together with an account of the previous treatment pursued, and a certificate signed by a medical officer of the advisability and fitness of removal of the individual to the Lunatic Asylum.—(Notification No. 2388, dated 29th November 1836, Supplement to Punjab Gazette of 30th idem)

The form of statement provided by the above Notification is the same as Form B annexed to this Act.

8. *Clause 1.*—In places other than those specified in the last preceding section, no person shall be received into a lunatic asylum, except as otherwise hereinbefore provided, without an order of the civil Court.

Clause 2.—When any person has been adjudged to be a lunatic, and a guardian for such lunatic has been appointed by the Court of Wards or the Collector or by the civil Court, if such guardian shall desire that the lunatic be admitted into a lunatic asylum, he shall make

Application for order to be made by a guardian, if a guardian has been appointed.

application to the civil Court, and the Judge, with the assistance of a medical officer, shall examine such lunatic, and if the medical officer shall sign a certificate in the Form A in the schedule to this Act, and the Judge shall be satisfied that the lunatic is a proper person to be detained under care and treatment in a lunatic asylum, he shall make an order for such person to be received into the asylum established for the division in which his jurisdiction is situate, or, if he think fit, into any licensed asylum mentioned in the application.

Clause 3.—If any relative or friend of any person for whom a guardian has not been appointed by the Court of Wards or the Collector or by the civil Court, desires that such person may be admitted into a lunatic asylum, he may make application to the civil Court, and the Judge, if he see sufficient reason for so doing, shall enquire into the fact of lunacy in the same manner as if an application had been made to the civil Court under the provisions of Section 3 of Act XXXV of 1858, entitled "*An Act to make better provision for the care of the estates of lunatics not subject to the jurisdiction of the Supreme Courts of Judicature*"; and if the lunacy be established, the Judge may then proceed in the manner prescribed in the second clause of this section.

Clause 4.—Whenever the Judge shall make an order for the reception of any person into a lunatic asylum, he shall, at the same time, make an order for the payment of the expenses to be incurred for the lodging, maintenance, clothing, medicine, and care of such person; and such expenses shall be recovered by the Judge on the application of the visitors or manager of such asylum. Provided however that, if it shall appear to the satisfaction of the Judge that the lunatic has not sufficient property, and that no person legally bound to maintain the said lunatic has sufficient means for the payment of such expenses, he shall certify the same in the order for the reception of the lunatic into the asylum, instead of making such order for the payment of expenses as aforesaid.

9. Subject to the provisions of any enactment for the time being in force, it shall be lawful for three of the visitors of any asylum, of whom one shall be a medical officer, by writing under their hands, to order the discharge of any person detained in such asylum. When such order is given, if the person is detained under the order of any public officer, notice of the order of discharge shall be immediately communicated to such officer.

NOTE.—The provisions of this section apply to every person confined in a Lunatic Asylum under Section 31 of Act V of 1871 after the expiration of the imprisonment ordered by the sentence. The section has been amended by Act XVIII of 1886, Section 2.

10. When any relative or friend of a lunatic detained in any asylum under the provisions of Section 4, Section 5, or Section 6 of this Act, is desirous that such lunatic shall be delivered over to his care and custody, he shall make application to the Magistrate or Commissioner of Police, under whose order the lunatic is detained, and the Magistrate or Commissioner of Police, if he think fit, after communication with the visitors or with one of them being a medical officer, and upon the undertaking in writing of such relative or friend to the satisfaction of the said Magistrate or Commissioner that such lunatic shall be properly taken care of and shall be prevented from doing injury to himself or others, shall make an order for the discharge of such lunatic, and such lunatic shall thereupon be discharged

11. The Inspector of Jails may direct the removal of any lunatic from any public asylum to any other public asylum within the circle of his inspection, and such order shall be sufficient authority for the removal of such lunatic, and also for his reception into the asylum to which he is ordered to be removed.

12. If, after the reception of any lunatic into any asylum, it appears that the order or the medical certificate or certificates upon which he was received is or are defective or incorrect, the same may at any time afterwards be amended by the person or persons signing the same with the sanction of two or more of the visitors of the said asylum, one of whom shall be a medical officer.

13. Every person received into a lunatic asylum under any such order as is required by this Act, accompanied by the requisite medical certificate, may be detained therein until he be removed or discharged as authorized by this Act, and in case of escape may, by virtue of such order, be re-taken by the manager of such asylum, or any officer or servant belonging thereto, or any other person authorized in that behalf by the said manager, or any police officer, and conveyed to and received and detained in such asylum.

14. When any lunatic is sent to a licensed asylum by order of a Magistrate or Commissioner of Police under Section 4, Section 5, or Section 6 of this Act, and when a lunatic is admitted into such asylum under Section 7, or an order for the reception of a lunatic is made under Section 8, and no engagement has been taken from the friends of the lunatic or order made by the Judge for the payment of expenses under the said Section 7 or Section 8 respectively, the expense of the lodging, maintenance, clothing, medicine, and care of such lunatic shall be paid by the Government to the manager of such asylum.

15. The Magistrate or Commissioner of Police by whom any lunatic has been sent to a lunatic asylum, if it appear to such Magistrate or Commissioner that such lunatic has an estate applicable to his maintenance and more than sufficient to maintain his family, or that any person is legally bound to maintain and has the means of maintaining such lunatic, may apply to the chief civil Court of original jurisdiction within the local jurisdiction of which the estate of the lunatic may be situate or the person legally bound to maintain him may reside, and such Court shall enquire into the matter in a summary way, and on being satisfied that such lunatic has an estate applicable to his maintenance, or that any person is legally bound to maintain and has the means of maintaining such lunatic, shall make an order for the recovery of the charges of the lodging, maintenance, clothing, medicine and care of such lunatic, out of such estate or from such person. Such order shall be enforced in the same manner, and shall be of the same force and effect, and subject to the same appeal, as any judgment or order made by the said Court in a regular suit in respect of the property or person therein mentioned. Any personal property which may be in the possession of a lunatic found wandering at large may be sold by the Magistrate, and the proceeds thereof (or such part of the same as may

be necessary) applied towards the payment of the charges of the lodging and maintenance of the lunatic, and of any other expenses incurred on his behalf.

Saving of liability of relatives to maintain lunatic.

16. The liability of any relative or person to maintain any lunatic shall not be taken away or affected by any provision contained in this Act.

17. Nothing contained in this Act shall be taken to interfere with the power of any of the Courts of Judicature established by Royal Charter over any person found to be lunatic by inquisition or under the provisions of Act XXXIV of 1858, entitled "*An Act to regulate proceedings in Lunacy in the Courts of Judicature established by Royal Charter*," or with the rights of any Committee of the person or estate of such lunatic.

NOTE.—The words repealed by Act XVI of 1874 have been omitted.

17 A. When an Executive Government has not established within its limits a public asylum for the reception and detention of lunatics under this Act, the Governor-General in Council may from time to time appoint an asylum established in British India beyond those limits to be an asylum to which a Magistrate or Judge exercising jurisdiction within those limits may send lunatics as to an asylum established under this Act for the division in which his jurisdiction is situate.

17 B. The Governor-General in Council may from time, by order, direct, with respect to any part of British India which is not annexed to a presidency or, being annexed to the presidency of Fort William, Fort Saint George or Bombay, is situated at a greater distance than three hundred miles from Calcutta, Madras or Bombay, respectively, that any lunatic asylum in British India named in the order shall be deemed for that part to be a lunatic asylum at the presidency for the purposes of this Act.

NOTE.—The two last sections have been added by Act XVIII of 1886, Section 3.

18. The word "lunatic," as used in this Act, shall mean and include every person of unsound mind, and every person being an idiot.

Interpretation.
"Lunatic.

"Magistrate." The word "Magistrate" shall include a person exercising the powers of a Magistrate.

SCHEDULE.

FORM A.

CERTIFICATE OF MEDICAL OFFICER.—(See Sections 4 and 8).

I, the undersigned, (*here enter name and official designation*), hereby certify that I, on the *day of* at *personally examined (here enter name and residence of lunatic)* and that the said *is a lunatic (or an idiot, or a person of unsound mind)*, and a proper person to be taken charge of, and detained under care and treatment, and that I have formed this opinion on the following grounds, namely:—

1. Facts indicating insanity observed by myself (*here state the facts*).

2. Other facts (if any) indicating insanity communicated to me by others (*here state the information and from whom*).

(Signed)

FORM B.

ORDER FOR THE RECEPTION OF A PRIVATE PATIENT—(see Section 7).

I, the undersigned, hereby request you to receive A. B., a lunatic [or an idiot, or a person of unsound mind] as a patient into your asylum. Subjoined is a statement respecting the said A. B.

(Signed) Name.

Occupation (if any)

Place of abode

Degree of relationship (if any), or other circumstances of connexion with the patient.

Dated this day of one thousand eight hundred and

To Superintendent of the Asylum at [describing the Asylum].

STATEMENT.

[If any of the particulars in this statement be not known, the fact to be so stated].

Name of patient, with Christian name at length.

Sex and age.

Married, single, or widowed.

Condition of life, and previous occupation (if any).

The religious persuasion, as far as known.

Previous place of abode.

Whether first attack.

Age (if known) on first attack.

When and where previously under care and treatment.

Duration of existing attack.

Supposed cause.

Whether subject to epilepsy.

Whether suicidal.

Whether dangerous to others.

Whether found lunatic by inquisition or enquiry under order of Court, and date of commission or order for inquisition or enquiry.

Whether any member of patient's family has been or is affected with insanity.

(Signed) Name.

[Where the person signing the statement is not the person who signs the order, the following particulars concerning the person signing the statement are to be added ; namely].

Occupation (if any).

Place of abode.

Degree of relationship (if any), or other circumstances of connexion with the patient.

NOTES.—(a). This Act is declared to be in force throughout the whole of British India except the scheduled districts, by Act XV of 1874. It has also been declared to be in force in certain of the Scheduled Districts of the Punjab (vide Notes (a) and (b) to Act XIV of 1874).

(b). The accompanying Resolution No. 4—153-63, dated 30th April, of the Government of India in the Home Department, relating to the deportation of insane persons from India to the United Kingdom is herewith circulated for information. The detailed instructions regarding the treatment of European lunatics, which have from time to time been issued from this office, are contained in the Circulars marginally noted, and these instructions are now issued in a consolidated form for facility of reference in supersession of all previous orders.

No. 9-78, dated 6th February 1871.
 " 16-1665, dated 22nd April 1875.
 " 34-3400, dated 16th August 1875.
 " 38-3155, dated 26th August 1875.
 " 16-1517, dated 10th April 1877.
 " 32-3788, dated 26th September 1877.
 " 6-609, dated 9th March 1878.
 " 2697, dated 16th August 1880.
 " 3169, dated 4th October 1880.
 " 35, dated 4th January 1881.
 Circular No. 17, dated 10th October 1883.

2. As there is no permanent accommodation for Europeans in the Lahore or Delhi Asylums, whenever Europeans become subjects for confinement in a lunatic asylum, steps must be taken to have them conveyed to an asylum at the Presidency, as provided in Act XXXVI of 1859.

3. No pauper lunatic will be deported to the United Kingdom unless he is of European birth, and unless also he is a person as to whom a probability exists that he will recover by transfer to England. Persons who, though of European parentage, have been born in India and spent their whole lives there, will not be deported to England unless they have an unquestionable settlement somewhere in the United Kingdom.

4. European lunatics in the Punjab who fulfil the conditions mentioned in paragraph 3 may be sent in certain cases to the Colaba Asylum at Bombay; in others to the Bhawanipur Asylum in Bengal. Such persons should be sent to Bombay in the early part of the troopng season in each year; but the orders of Government should in every case be obtained before any such person is despatched to Bombay.

If Government sanctions the transfer of the lunatic, a full medical history of his case must be sent with him in addition to the certificate mentioned above, together with any documents or information relating to his parentage and birthplace with a view to discovering the parish responsible for his maintenance in England.

5. Arrangements have been made by the Government of India for conveyance of a limited number of civil male pauper lunatics to England in Her Majesty's troopships. A statement of the number of lunatics in each division, for whom accommodation is likely to be required should be submitted annually, not later than 1st April in each year. No accommodation can be given on board troopships to female lunatics.

6. European lunatics whom it is not intended to transfer to England should be sent to the Bhawanipur Asylum in Bengal. Here also the previous sanction of Government should be obtained to the transfer, and care must be taken

1. Certificate in form A of the Schedule attached to Act XXXVI of 1858.
2. Certificate of Civil Surgeon.
3. Descriptive Roll of criminal lunatic sent to asylum.
4. Descriptive Roll of non-criminal lunatic sent to asylum.
5. Order directing admission of a lunatic into an asylum.

not to apply for the removal of persons suffering from the temporary results of sickness, intemperance or debauchery. If the removal of the lunatic is sanctioned, the documents marginally noted, or copies of them, should also be sent with him, while copies or the originals, as the

case may be, should also be forwarded by post. The forms in which these documents should be prepared are enclosed.

7. Orders for the admission of European female non-criminal lunatics into the Bhawanipur Asylum will not be made until it has been previously ascertained whether such lunatics can be accommodated therein or not.

No. 4—153-63.

Extract from the Proceedings of the Government of India in the Home Department (Medical),—under date Simla, the 30th April 1886.

READ again the undermentioned papers on the subject of the deportation of lunatics from India to England:—

Despatch from Her Majesty's Secretary of State, to Government of India, No. 15 (Public), dated 8th February 1868, and endorsement thereon to Government of Bengal, No. 2943, dated 26th March 1868.

Despatch from Her Majesty's Secretary of State, to Government of India, No. 143 (Public), dated 9th September 1868, and endorsement thereon to Government of Bengal, No. 4176, dated 17th October 1868.

Despatch from Her Majesty's Secretary of State, to Government of India, No. 45 (Public), dated 20th May 1869, and endorsements thereon to Governments of Bengal, Madras and Bombay, Nos. 2933 to 2935, dated 28th June 1869.

Despatch from Her Majesty's Secretary of State, to Government of India, No. 102 (Public), dated 26th October 1870, and endorsement thereon to Government of Bengal, No. 5233, dated 30th November 1870.

Despatch from Her Majesty's Secretary of State, to Government of India, No. 12 (Public), dated 2nd March 1871, and endorsement thereon to Government of Bengal, No. 1963, dated 20th April 1871.

Despatch from Her Majesty's Secretary of State, to Government of India, No. 60 (Public), dated 12th June 1873, and orders thereon to the Governments of Bengal, Madras and Bombay, Nos. 2535 to 2537, dated 2nd August 1873.

Despatch from Her Majesty's Secretary of State, to Government of Bombay, No. 2 (Public), dated 4th March 1875.

Despatch from Her Majesty's Secretary of State, to Government of India, No. 139 (Public), dated 11th November 1875.

* Despatch from Her Majesty's Secretary of State, to Government of Bombay, No. 1 (Public), dated 18th January 1877, and orders thereon to the Governments of Madras, Bengal, the North-Western Provinces and Oudh, and the Punjab, and the Chief Commissioners of the Central Provinces, British Burma, Mysore and Coorg, and Assam, Nos. 5—225 to 31, dated 29th March 1877, with endorsement to the Government of Bombay, No. 232 of same date

Read also the undermentioned correspondence relating to the deportation to England of an insane person named Charles Hax :—

Letter from the Government of Bengal, No. 1631, dated 22nd August 1885.

Despatch to Her Majesty's Secretary of State, No 36 (Public—Medical), dated 5th September 1885.

Letter from the Government of Bengal, No 1503, dated 1st September 1885.

Despatch to Her Majesty's Secretary of State No. 38 (Public—Medical), dated 22nd September 1885.

Despatch from Her Majesty's Secretary of State, No. 109 (Public), dated 5th November 1885.

RESOLUTION.

HER Majesty's Secretary of State for India has from time to time issued various instructions in regard to the deportation of insane persons from India to the United Kingdom. These instructions have been communicated by the Government of India either to the Local Government concerned, or, if the instructions were of general application, to all Local Governments and Administrations for information and guidance. In some instances, however, the Secretary of State's orders do not appear to have been strictly followed, and the Governor-General in Council accordingly considers it desirable to circulate a brief *resumé* of the more important of these orders for the better information and guidance of the local authorities concerned.

2. In a Despatch, dated 8th February 1866, No. 15, the Secretary of State remarked, with reference to certain lunatics who had been sent to England from the Lower Provinces of Bengal and who appeared, with one exception, to have been natives of India, that the practice of sending persons of this class to England was altogether unauthorised by the Home authorities. On that occasion Sir Charles Wood observed :—

"It is evident, on the one hand, that no benefit to the individuals can as a general rule arise from their transfer from the land of their birth to a country where the climate is so different from what they have been accustomed to, where they have no friends, and where all old associations must be wanting; and on the other hand, that the expense to Government, including the cost of their passage and their maintenance in asylums in this country, must be considerably greater than if they were retained in asylums in India."

The Secretary of State accordingly requested that orders might be issued to the effect that insane persons, not being of European birth, should under no circumstances be thereafter sent to England, and that even lunatics of European birth should be deported only in cases where their transfer to Europe was likely to promote their recovery, or where there might be reason to believe that they had relatives in Europe who would be able and willing to bear the cost of their maintenance.

3. In a Despatch No. 143, dated 9th September 1868, the Secretary of State intimated the arrival in England of certain pauper insanes, concerning whom he had not received any advice or information from the Government of India. Particulars were accordingly asked for regarding the names and addresses of their relatives, and the parishes in which they individually might claim a settlement. At the same time the Secretary of State informed the Governor-General in Council that he had resolved to defray from the revenues of India the expense of maintaining in England all pauper lunatics sent by the Governments in India, whose settlement in the United Kingdom could not be traced. He therefore again called attention to the Despatch referred to in the preceding paragraph, and requested that the instructions therein conveyed might be carefully and strictly observed, as the cost to the Indian Government for the support in England of each insane pauper was about £1 per week.

4. In a Despatch No. 45, dated 20th May 1869, the Secretary of State remarked that he was glad to perceive that the Government of India had enjoined a more careful observance of the orders of Her Majesty's Government on the subject of the transmission to England of pauper insane patients, and desired that for the future their passages might be secured on as economical terms as possible. The case of distressed seamen should, it was intimated, be regulated by the rules contained in the "Supplementary Instructions to Officers in British possessions abroad" issued by the Board of Trade.

5. In a Despatch No. 102, dated the 26th October 1870, the Secretary of State, commenting upon the statement of the case of a particular lunatic, whose father was described as "a pensioned soldier supposed to be living in Dublin," remarked that this address might be insufficient to lead to the discovery of the person referred to, and added :—

"It would be well, for the future, if directions are given to the officers concerned in drawing up these statements to obtain every information regarding the parishes of the European parents of any pauper insane patients who may hereafter be sent to this country from India."

6. In March 1871, the Secretary of State, in sending* to the Government of India a copy of a correspondence with the Board of Trade on the subject of the repayment by the Board of the amount expended on account of the passage to England of certain insane seamen, remarked :—

"Your Lordship in Council will observe that the Board state that the Masters of British vessels can be compelled, under the provisions of the Merchant Shipping Act, to provide pas-

* Despatch No. 12, dated 2nd March 1871.

"ages to distressed seamen, whether in a state of insanity or not, from India to this country. The terms regulating the expense of such passages are prescribed by the Board of Trade, and are contained in the accompanying "Instructions," copies of which were transmitted to your Government with my predecessor's Despatch in the Financial Department, No. 356, dated 26th August 1868."

The Secretary of State also expressed his regret that the orders contained in his Despatch No. 45, dated 20th May 1869, had been disregarded, and desired that the Government of India would enjoin a careful and rigid observance of the directions issued by Her Majesty's Government on the subject of the conveyance of pauper insane patients from India to England, and especially of distressed seamen. It was added:—

"It would appear from the 'Supplementary Instructions,' already referred to, that 'an immediate advice' should be sent direct to the Board of Trade of the despatch of all distressed and insane seamen in order that that Department may take the necessary measures for their reception and care in this country, and that all payments incurred in their behalf should be charged to the Board in the manner prescribed."

7. With a Despatch No. 69, dated 12th June 1873, the Secretary of State forwarded a copy of a correspondence which had taken place with the Board of Trade regarding the recovery of the cost of clothing supplied to certain distressed insane seamen sent from Calcutta. The Board considered that the articles of clothing supplied by the medical authorities in India to the insane seamen in question were more expensive and numerous than was necessary; and with reference to a request made by the Government of India for the issue of more definite instructions for future guidance in the matter, the Board, while thinking that a rule could not be laid down which would be applicable to every case, were of opinion that such clothing should be supplied as the medical authorities and the Shipping Master might jointly recommend. The Secretary of State at the same time invited the Government of India to impress on the several authorities in India the great importance of collecting the fullest information regarding the settlement in the United Kingdom of all insane patients despatched from India to England, and of carefully observing the orders issued on the subject, especially in the cases of lunatic seamen, inasmuch as the cost of maintaining in England those patients whose settlements cannot be traced falls on the revenues of India.

8. In March 1875 the Secretary of State suggested* to the Government of Bombay that in the event of the necessity arising for sending, from India to England, distressed insane persons who were not British subjects, application should be made to the Consuls or other Representatives of Foreign Governments in India for the conveyance of such persons direct to their own country. It was added that if no such assistance should be available, the Government of Bombay should, as a matter of course, extend to those people the same consideration as is given to British subjects.

9. In September 1875 arrangements were made† by the Government of India, at the instance of the Government of Bombay, for sending European civil insanes from Bengal to England via Bombay along with insanes from the Bombay Presidency. The matter was duly reported to Her Majesty's Secretary of State, who in his Despatch No. 139, dated 11th November 1875, expressed approval of the arrangements in question.

10. In a Despatch to the Government of Bombay, No. 1, dated 11th January 1877, the Secretary of State remarked:—

"As it has been decided to embark all civil lunatics at Bombay and send them to England in the spring of every year, I desire again to call the attention of your Government to the very great importance of collecting the most accurate information regarding the medical history and relations of every such patient. The responsibility of maintaining these persons in England rests on the Poor Law Guardians, and these authorities should be enabled, as far as possible, to discover the parishes of all those who may possess a settlement, original or derivative, in the United Kingdom."

11. In a Despatch No. 109, dated 5th November 1885, dealing with the case of an insane person named Charles Hax, the Secretary of State makes certain observations, to which attention is here requested. In the first place, His Lordship explains that much inconvenience is caused by the despatch of insane persons from India under circumstances which allow of their reaching England before any intimation has been received in the India Office of their being on their way. In the next place, the Secretary of State remarks, with special reference to the case under His Lordship's notice, that, although in both of the Despatches from the Government of India the man was described as the "insane prisoner named Charles Hax," yet no warrant or formal order of any kind accompanied or followed him, and nothing save the repeated use of the expression "insane prisoner" served to indicate whether the intention was to send him as a prisoner under the Statute 14 and 15 Vic., Cap. 81, or otherwise. The Secretary of State points out that insane prisoners or criminal lunatics removed from India under the special law applicable to them are in a very different position from persons deported from India not as prisoners or criminal lunatics, and that it is essential that it should be stated distinctly in what character each individual is sent.

12. The Secretary of State also observes that in the articles of agreement (undertaking charge of the lunatic, &c.) signed by the Master of the steamer which conveyed Charles Han to England, the clauses relating to the remuneration of the Master for taking care of the insane passenger are couched in such language as to be practically meaningless. His Lordship observes:—

“There are obvious reasons which make it desirable that the gratuity for personal care, &c., should be dependent on the treatment received by the lunatic; but if it has been found by experience to be necessary that the whole amount payable in respect of these insane passengers should be paid in advance in Calcutta, the articles of agreement ought to be so framed as to express distinctly that which is intended.”

13. Lastly, the Secretary of State thinks it well to remind the Government of India of the difficulty which exists in England in dealing satisfactorily with pauper lunatics (not soldiers or seamen) deported from India. This difficulty, His Lordship observes, arises from the fact that he is unable to provide for the reception and maintenance of pauper lunatics, and it is, therefore, necessary to leave it to the Police and Poor Law authorities to deal with them on their reaching England. His Lordship adds:—

"It is essential that the instructions which have been repeatedly given by my predecessors should be strictly acted upon, viz., that no pauper lunatic shall be deported to the United Kingdom unless he is of European birth, and unless, also, he is a person as to whom a probability exists that he will recover if transferred to England. As to persons who, though of European parentage, have been born in India and spent their whole lives there, they ought not to be deported to England unless they have an unquestionable settlement somewhere in the United Kingdom."

14. The foregoing summary enumerates the principal orders which have recently been issued by the Secretary of State upon this subject, and the Governor-General in Council desires to impress upon Local Governments and Administrations the necessity of carefully observing the orders thus summarised. It is specially necessary that measures should be adopted with the view of giving the India Officer timely intimation of the despatch of lunatics to England, so as to avoid the inconvenience mentioned by Her Majesty's Secretary of State in the Despatch of 5th November 1885. His Excellency in Council also trusts that such action as may be necessary will be taken with reference to the remarks made in the same Despatch as to the wording of the clauses in the articles of agreement signed by Masters of vessels who take charge of lunatics proceeding to England in respect of the remuneration to which they will be entitled for such charge.

ORDER.—Ordered, that a copy of this Resolution and of the Despatch from Her Majesty's Secretary of State, No. 109, dated 5th November 1885, be forwarded to the Government of Bengal (Medical Department) for information and guidance.

Ordered also, that a copy of this Resolution and of the "Instructions to Officers in British possessions abroad," issued by the Board of Trade, referred to in the Despatch from His Majesty's Secretary of State No. 12, dated 2nd March 1871, be forwarded to the other Local Governments and Administrations for information and guidance.

No. 2.

Certificate of Medical Officer in the Form A. in the Schedule to Act No. XXXVI of 1858.

I, the undersigned _____ hereby certify that I,
on the _____ day of _____ at _____, personally examined

is a lunatic and a proper person to be taken charge of and detained under care and treatment, and that I have founded this opinion on the following grounds, namely:—

1st.—Facts indicating insanity observed by myself.

2nd.—Other facts (if any) indicating insanity communicated to me by others.

DATED

The 18 Civil Surgeon.

APPENDIX IX.

No. 1.

Certificate (in duplicate) in accordance with the rules laid down in Government letter No. 4382 from the Officiating Additional Secretary to the Government of Bengal, to all Commissioners (except the Commissioner of the Presidency Division), dated Fort William the 5th September 1888.

I, _____, Civil Surgeon of _____, do hereby certify that
I have this day examined the _____ named _____, aged _____
_____, and that the said _____ is in a
_____ state of health, and is physically _____.

DATED

The 18 .) Civil Surgeon.

No. 4.

*Descriptive Roll of a Lunatic forwarded to the
Dated at*

Lunatic Asylum.

18

1. Name of lunatic
2. Names of near relatives, members of his family
3. Place of Residence—village, pargana, and zila
4. Occupation
5. Age and distinguishing physical marks
6. List of articles, as clothes, &c., belonging to and sent with him
7. How long has the lunatic been insane?
8. Have the lunatic's father, mother or near relatives been insane?
9. Is the lunatic addicted now to ganja, opium, or ardent spirits, or has he been previously?
10. What cause is assigned for the lunatic's insanity?
11. Has the lunatic set fire to property, or attempted to do so?
12. Has the lunatic killed, wounded, or beaten any one, and with what weapon?
13. Has the lunatic any particular delusion of mind?
14. Has there been a marked change from former habits and disposition?
Is the lunatic violent, intractable, or dangerous?
Does the lunatic refuse to eat or drink?
Is the lunatic disposed to suicide?
15. Has the lunatic had epilepsy?
16. Give any further information regarding the lunatic you can

Descriptive Roll.

Name	
Residence	
By whose order, and under what section of the law, received into the asylum	No. dated
Date of admission	
Order and certificate	}
Examined by visitors	
Register No.	
Case book, vol.	

No. 5.

No.

FROM

TO

THE SUPERINTENDENT, LUNATIC ASYLUM.

Dated

SIR

UNDER section
I have this day directed that
public lunatic asylum under your charge.

of

be received into the

If the order is passed under
Act XXXVI of 1858.

The necessary medical certificate and the papers required
by Government order No. 4382, dated 5th September 1868, accom-
pany the lunatic, who is sent under charge of

(Punjab Government Circular No. 9-426, dated 16th June 1886).

ACT No. XL of 1858.*(Passed on the 11th December 1858).*

An Act for making better provision for the persons and property of Minors in the presidency of Fort William in Bengal.

Whereas it is expedient to make better provision for the care of the persons and property of minors not brought under the superintendence of the Court of Wards; it is enacted as follows:—

Preamble.

1. *Repealed by Act XIV of 1870.*

2. Except in the case of proprietors of estates paying revenue to

Persons and property of minors not under the protection of the Court of Wards shall be subject to jurisdiction of civil Court.

Government who have been or shall be taken under the protection of the Court of Wards, the care of the persons of all minors (not being European British subjects) and the charge of their property shall be subject to the jurisdiction of the civil Court.

NOTES.—(a). The words "mahals assessed to revenue or held revenue-free" have been substituted for words "estates paying revenue to Government," by Act XIX of 1873, Sec. 258.

(b). The guardianship of European British minors is provided for by Act XIII of 1874.

3. Every person who shall claim a right to have charge of property in

What persons claiming to have charge of property in trust for a minor may apply for certificate of administration.

trust for a minor under a will or deed, or by reason of nearness of kin, or otherwise, may apply to the civil Court for a certificate of administration; and no person shall be entitled to institute or defend any suit connected with the estate of which he claims the charge until he shall have obtained such certificate. Provided that, when the property is of small value, or for any other sufficient reason, any Court having jurisdiction may allow any relative of a minor to institute or defend a suit on his behalf, although a certificate of administration has not been granted to such relative.

No person to institute or defend a suit without such certificate.

Proviso.

4. Any relative or friend of a minor in respect of whose property such

Who may apply to Court to appoint a person to take charge of the property &c. of a minor.

certificate has not been granted, or, if the property consist in whole or in part of land or any interest in land, the Collector of the district, may apply to the civil Court to appoint a fit person to take charge of the property and person of such minor.

To what Court application to be made, if property be situate in more than one district.

5. If the property be situate in more than one district, any such application as aforesaid shall be made to the civil Court of the district in which the minor has his residence.

6. When application shall have been made to the civil Court either

Summary enquiry to be made by Court on application.

by a person claiming a right to have charge of the property of a minor, or by any relative or friend of a minor, or by the Collector, the Court shall issue notice of the application and fix a day for hearing the same. On the day so fixed, or so soon after as may be convenient, the Court shall enquire summarily into the circumstances and pass orders in the case. Provided always that it shall be competent to the civil Court to direct any Court subordinate to it to make such enquiry and report the result.

of the application and fix a day for hearing the same. On the day so fixed, or so soon after as may be convenient, the Court shall enquire summarily into the circumstances and pass orders in the case. Provided always that it shall be competent to the civil Court to direct any Court subordinate to it to make such enquiry and report the result.

Proviso.

Court to direct any Court subordinate to it to make such enquiry and report the result.

7. If it shall appear that any person claiming a right to have charge of

Certificate of administration to whom to be granted.

the property of a minor is entitled to such right by virtue of a will or deed, and is willing to undertake the trust, the Court shall grant a certificate of administration to such person. If there is no person so entitled, or if such person is unwilling to undertake the trust, and there is any near relative of the minor who is willing and fit to be entrusted with the charge of his property, the Court may grant a certificate to such relative. The Court may

Court may appoint person having such certificate, guardian of the minor's person.

also, if it think fit (unless a guardian have been appointed by the father), appoint such person as aforesaid or such relative or any other relative or friend of the minor, to be guardian of the person of the minor.

8. The Court may call upon the Collector or Magistrate for a report

Court may call upon Collector or Magistrate for a report on the character and qualification of relative or friend.

on the character and qualification of any relative or friend of the minor who may be desirous or willing to be entrusted with the charge of his property or person.

9. If no title to a certificate be established to the satisfaction of the

Proceeding if no title to a certificate be established, and if there be no relative fit to be entrusted with the property, &c. of a minor.

Court by a person claiming under a will or deed, and if there be no near relative willing and fit to be entrusted with the charge of the property of the minor, and the Court shall think it to be necessary for the interest of the minor that provision should be made by the Court for the charge of his property and person, the

Court may proceed to make such provision in the manner hereinafter provided.

10. If the estate of the minor consist of moveable property, or of

If estate consist only of moveable property, &c., Court may grant certificate to public curator or other person.

houses, gardens, or the like, the Court may grant a certificate to the public curator appointed under Section 19, Act XIX of 1841 (*for the protection of moveable and immoveable property against wrongful possession in certain cases*), or, if there be no public

curator, to any fit person whom the Court may appoint for the purpose.

11. Whenever the Court shall grant a certificate of administration to

Appointment of guardian.

the estate of a minor to the public curator or other person as aforesaid, it shall at the same time appoint a guardian to take charge of the person and maintenance of the minor. The person to whom a certificate of administration has been granted, unless he be the public curator, may be appointed guardian. If the person appointed to be guardian be unwilling to discharge the trust

gratuitously, the Court may assign him such allowance, to be paid out of the estate of the minor, as under the circumstances of the case it may think suitable. The Court may also fix such allowance as it

Guardian's allowance.

may think proper for the maintenance of the minor; and such allowance and the allowance of the guardian (if any) shall be paid to the guardian by the public curator or other person as aforesaid.

12. If the estate of the minor consist, in whole or in part, of land or

When the estate consists of land, Court may direct Collector to take charge of estate. Appointment of manager and guardian thereupon.

any interest in land, the Court may direct the Collector to take charge of the estate, and thereupon the Collector shall appoint a manager of the property of the minor and a guardian of his person, in the same manner and subject to the same rules in respect to

such appointments and of the duties to be performed by the manager and guardian respectively, so far as the same may be applicable, as if the property and person of the minor were subject to the jurisdiction of the Court of Wards.

13. In all enquiries held by the civil Court under this Act, the Court may make such order as to the payment of costs by the person on whose application the enquiry was made, or out of the estate of the minor, or otherwise, as it may think proper.

Costs of enquiries under this Act.

14. Whenever one or more of the proprietors of an estate, which has come under the jurisdiction of the Court of Wards on account of the disqualification of all the proprietors, ceases to be disqualified, and the estate, in consequence, ceases to be subject to the jurisdiction of the Court of Wards, notwithstanding the continued disqualification of one or more of the co-proprietors, the Collector of the district in which the estate is situate may represent the fact to the civil Court; and the Court, unless it see sufficient reason to the contrary, shall direct the Collector to retain charge of the persons, and of the shares of the property of the still disqualified proprietors, during the continuance of their disqualification, or until such time as it shall be otherwise ordered by the Court. The Collector shall in such case appoint a guardian for the care of the persons, and a manager for the charge of the property of the disqualified proprietors, in the manner prescribed in Section 12.

When an estate, some of the co-proprietors of which are still minors, ceases to be subject to the Court of Wards, civil Court may direct Collector to retain charge of shares and persons of minors.

Provision for case of estates situated in more than one district. shall be made by the Collector who had the general management of the property under the Court of Wards, to the civil Court of his own district, and the orders of the Court of that district shall have effect also in other districts in which portions of the property may be situate.

Proceedings of Collector subject to control of superior Revenue authorities.

15. The proceedings of the Collector in the charge of estates under this Act shall be subject to the control of the superior Revenue authorities.

16. The public curator and every other administrator to whom a certificate shall have been granted under Section 10 shall, within six months from the date of the certificate, deliver in Court an inventory of any immoveable property belonging to the minor, and of all such sums of money, goods, effects, and things as he shall have received on account of the estate, together with a statement of all debts due by or to the same. And the public curator and every such other administrator shall furnish annually, within three months from the close of the year of the era current in the district, an account of the property in his charge, exhibiting the amounts received and disbursed on account of the estate, and the balance in hand. If any relative or friend of a minor or any public officer, by petition to the Court, shall impugn the accuracy of the said inventory and statement or of any annual account, the Court may summon the curator or administrator and enquire summarily into the matter, and make such order thereon as it shall think proper, or the Court at its discretion may refer such petition to any subordinate Court.

Proceeding if accuracy of inventory or account be impugned.

- 17.** All sums received by the public curator or such other administrator on account of any estate, in excess of what may be required for the current expenses of the minor or of the estate, shall be paid into the public treasury on account of the estate, and may be invested from time to time in the public securities.

Public curator &c. to pay proceed of estates into treasury. Surplus funds to be invested in public securities.

- 18.** Every person to whom a certificate shall have been granted under the provisions of this Act, may exercise the same powers in the management of the estate as might have been exercised by the proprietor if not a minor, and may collect and pay all just claims, debts, and liabilities due to or by the estate of the minor. But no such person shall have power to sell or mortgage any immoveable property, or to grant a lease thereof for any period exceeding five years, without an order of the civil Court previously obtained.

Powers of person to whom certificate has been granted, in the management of a minor's estate.

- 19.** It shall be lawful for any relative or friend of a minor, at any time during the continuance of the minority, to sue for an account from any manager appointed under this Act, or from any person to whom a certificate shall have been granted under the provisions of this Act, or from any such manager or person after his removal from office or trust, or from his personal representative in case of his death, in respect of any estate then or formerly under his care or management, or of any sums of money or other property received by him on account of such estate.

Relation or friend may sue for an account.

- 20.** If the disqualification of a person, for whose benefit a suit shall have been instituted under this Act, cease before the final decision thereof, it shall be lawful for such person to continue the prosecution of the suit on his own behalf.

Continuance of suit instituted under this Act after disqualification shall have ceased.

- 21.** The civil Court for any sufficient cause may recall any certificate granted under this Act, and may direct the Collector to take charge of the estate, or may grant a certificate to the public curator or any other person as the case may be; and may compel the person whose certificate has been recalled to make over the property in his hands to his successor, and to account to such successor for all monies received and disbursed by him. The Court may also for any sufficient cause remove any guardian appointed by the Court.

Revocation of certificate.

Removal of guardian.

- 22.** The civil Court may impose a fine not exceeding five hundred rupees on any person who may wilfully neglect or refuse to deliver his accounts, or any property in his hands, within the prescribed time, or a time fixed by the Court; and may realize such fine by attachment and sale of his property under the rules in force for the execution of decrees of Court; and may also commit the recusant to close custody until he shall consent to deliver such accounts or property.

Penalty for neglect or refusal to deliver accounts or property.

- 23.** The civil Court may permit any person to whom a certificate shall have been granted under this Act not being the public curator, and any guardian appointed by the Court, to resign his trust; and may give him a discharge therefrom on his accounting to his successor, duly appointed, for all monies received and disbursed by him, and making over the property in his hands.

Civil Court may permit resignation of trust, &c.

24. The public curator and every other administrator to whom a certificate shall have been granted under Section 10, shall be entitled to receive such commission not exceeding five per centum on the sums received and disbursed by him, or such other allowance, to be paid out of the minor's estate, as the civil Court shall think fit.

25. Every guardian appointed by the civil Court, or by the Collector under this Act, who shall have charge of any male minor, shall be bound to provide for his education in a suitable manner. The general superintendence and control of the education of all such minors shall be vested in the civil Court or in the Collector, as the case may be; and the provisions of Act XXVI of 1854 (*for making better provision for the education of male minors subject to the superintendence of the Court of Wards*) shall, so far as is consistent with the provisions herein contained, be applicable to the civil Court, or to the Collector, as the case may be, in respect to such minors, and to every such guardian.

Remuneration of public curator, &c.
Guardians of minors under this Act to provide for their education.
Act XXVI of 1854 declared applicable.

26. For the purposes of this Act, every person shall be held to be a minor, who has not attained the age of eighteen years.

27. Nothing in this Act shall authorize the appointment of a guardian of the person of a female whose husband is not a minor, or the appointment of a guardian of the person of any minor whose father is living and is not a minor; and nothing in this Act shall authorize the appointment of any person other than a female as the guardian of the person of a female. If a guardian of the person of a minor be appointed during the minority of the father or husband of the minor, the guardianship shall cease as soon as the father or husband (as the case may be) shall attain the age of majority.

Persons under the age of 18 years to be held minors for the purposes of this Act.

Act not to authorize the appointment of guardians of certain married women and other persons.

28. All orders passed by the civil Court, or by any subordinate Court under this Act, shall be open to appeal under the rules in force for appeals, in miscellaneous cases, from the orders of such Court and the subordinate Courts.

29. The expression "Civil Court" as used in this Act shall be held to mean the principal Court of original jurisdiction in the district, and shall not include the Supreme Court; and nothing contained in this Act shall be held to affect the powers of the Supreme Court over the person or property of any minor subject to its jurisdiction. Unless the contrary appears from the context, words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number; and words importing the masculine gender shall include females.

Guardianship during the minority of the father or husband of minor when to cease.
Appeals.
Construction of the words "Civil Court," &c. Powers of Supreme Court not affected.

Number.
Gender.

NOTES.—(a). This Act is declared to be in force in the Punjab by Act IV of 1872. It has also been declared to be in force in certain of the Scheduled Districts of the Punjab (*vide* Notes (a) and (b) to Act XIV of 1874).

(b). See Act XIII of 1874, which provides for the guardianship of European British minors.

(c). The jurisdiction exercised under this Act is not affected by Act IX of 1861, which provides for the hearing of suits relative to the custody and guardianship of minors.

(d). For form of certificate under this Act, see Judicial Form (Civil) No. XCIII.

ACT No. IX of 1859.*(Passed on the 30th April 1859).*

An Act to provide for the adjudication of claims to property seized as forfeited.

Whereas it is expedient to make provision for the adjudication of claims to property seized as forfeited, with a view to the speedy determination of the same; and whereas it is

Preamble.

also expedient to remove doubts concerning the powers of officers or other persons to whom commissions may have been issued for the trial of heinous offences in certain districts, and concerning the validity of convictions and adjudications of forfeiture made by such officers or other persons; It is enacted as follows:—

NOTE.—Act VIII of 1868 repeals the whole of this Act except Sections 16, 17, 18 and 20.

* * * * *

16. Whenever any person shall have been convicted of an offence for which his property was forfeited to Government, no Court has power in any suit or proceeding relating to such property to question the validity of the conviction.

Validity of Convictions of offences involving forfeiture of property not to be questioned by any Court.

17. Whenever any person shall have been convicted as above by an officer having power to try and convict, the validity of any such conviction shall not be questioned upon the ground that the record of the conviction does not show in what capacity such officer acted, or that it represents him to have acted in a different capacity from that in which he had power to convict.

Validity of conviction not to be questioned because the record does not show in what capacity the convicting officer acted.

18. Whenever any property shall have been attached or seized without either conviction or an adjudication of forfeiture by any officer of Government as property forfeited or liable to be forfeited to Government for an offence for which, upon conviction, the property of the offender would be forfeited, the validity of such attachment or seizure shall not be called in question by any

Property attached without adjudication of forfeiture.

Validity of such attachment not to be questioned unless offender surrendered within one year and be acquitted, &c.

Court or other authority in any suit or proceeding, unless the offender or alleged offender shall, within one year after the seizure of his property, have surrendered himself for trial, and upon trial before a competent Court shall have been or shall be acquitted of the offence, and shall prove to the satisfaction of the Court that he did not escape or keep out of the way for the purpose of evading justice. Nothing in this section shall extend to persons entitled to pardon under Her Majesty's proclamation published in the *Calcutta Gazette Extraordinary*, dated the first of November 1858, or to any person who having surrendered himself within the period of one year after the seizure of his property shall be discharged by order of Government without a prosecution.

Proviso.

* * * * *

20. Nothing in this Act shall be held to affect the rights of parties not charged with any offence for which, upon conviction, the property of the offender is forfeited, in respect of any property attached or seized as forfeited or liable to be forfeited to Government; provided that no suit brought by any party in respect of such property

Act not to affect the rights of parties not charged with an offence punishable by forfeiture of property.

Proviso.

shall be entertained unless it be instituted within the period of one year from the date of the attachment or seizure of the property to which the suit relates.

NOTE.—This Act is declared to be in force throughout the whole of British India, except the Scheduled Districts, by Act XV of 1874. It has also been declared to be in force in certain of the Scheduled Districts of the Punjab but *not* in Lahul (*vide* Notes (a) and (b) to Act XIV of 1874).

ACT No. XIII of 1859.

(Passed on the 4th May 1859).

An Act to provide for the punishment of breaches of contract by artificers, workmen, and labourers in certain cases.

Whereas much loss and inconvenience are sustained by manufacturers, tradesmen, and others in the several presidency towns of Calcutta, Madras, and Bombay, and in other places, from fraudulent breach of contract on the part of artificers, workmen, and labourers who have received money in advance on account of work which they have contracted to perform; and whereas the remedy by suit in the civil Courts for the recovery of damages is wholly insufficient, and it is just and proper that persons guilty of such fraudulent breach of contract should be subject to punishment; It is enacted as follows:—

1. When any artificer, workman, or labourer shall have received from any master or employer resident or carrying on business in any presidency town, or from any person acting on behalf of such master or employer, an advance of money on account of any work which he shall have contracted to perform, or to get performed by any other artificers, workmen, or labourers, if such artificer, workman, or labourer shall wilfully and without lawful or reasonable excuse neglect or refuse to perform or get performed such work according to the terms of his contract, such master or employer or any such person as aforesaid may complain to a Magistrate of Police, and the Magistrate shall thereupon issue a summons or a warrant, as he shall think proper, for bringing before him such artificer, workman, or labourer, and shall hear and determine the case.

NOTE.—The words repealed by Act XVI of 1874 have been omitted.

2. If it shall be proved to the satisfaction of the Magistrate that such artificer, workman, or labourer has received money in advance from the complainant on account of any work, and has wilfully and without lawful or reasonable excuse neglected or refused to perform or get performed the same according to the terms of his contract, the Magistrate shall, at the option of the complainant, either order such artificer, workman, or labourer to repay the money advanced, or such part thereof as may seem to the Magistrate just and proper, or order him to perform, or get performed, such work according to the terms of his contract; and if such artificer, workman, or labourer shall fail to comply with the said order, the Magistrate may sentence him to be imprisoned with hard labor for a term not exceeding three months, or if the order be for the repayment of

a sum of money, for a term not exceeding three months, or until such sum of money shall be sooner repaid; provided that no such order for the repayment of any money shall, while the same remains unsatisfied, deprive the complainant of any civil remedy by action or otherwise which he might have had but for this Act.

3. When the Magistrate shall order any artificer, workman, or labourer to perform or get performed any work according to the terms of his contract, he may also at the request of the complainant require such artificer, workman, or labourer to enter into a recognizance, with sufficient security, for the due performance of the order; and in default of his entering into such recognizance or furnishing such security to the satisfaction of the Magistrate, may sentence him to be imprisoned with hard labour for a period not exceeding three months.

4. The word "contract," as used in this Act, shall extend to all contracts and agreements, whether by deed, or written or verbal, and whether such contract be for a term certain, or for specified work, or otherwise.

To what contracts the Act extends.

5. This Act may be extended by the Governor-General of India in Council, or by the Executive Government of any presidency or place, to any place within the limits of their respective jurisdictions. In the event of this Act being so extended, the powers hereby vested in a Magistrate of Police shall be exercised by such officer or officers as shall be specially appointed by Government to exercise such powers.

NOTES.—(a). The provisions of this Act were extended to the Punjab by Notification No. 579, dated 13th July 1859.—(*Punjab Gazette of same date, page 238*).

(b). Cases under the Act may be tried by all officers exercising full powers, that is to say, by all Magistrates of the 1st class. See Judicial Circular No. XCII.

ACT No. XV of 1859.

(Passed on the 17th May 1859).

An Act for granting exclusive privileges to Inventors.

Whereas Act VI of 1856, entitled "*An Act for granting exclusive privileges to Inventors*," was passed by the Legislative Council of India without the sanction of Her Majesty to the passing thereof having been previously obtained and signified in pursuance of the Statute passed in the seventeenth year of the reign of Her Majesty entitled "*An Act to provide for the Government of India*," and whereas Her Majesty's Law Officers having given it as their opinion that the Legislative Council of India was not competent to pass Act VI of 1856 without previously obtaining the sanction of the Crown, and the Court of Directors of the East India Company having, in pursuance of the power vested in them by law, disallowed Act VI of 1856, and having signified to the Governor-General of India in Council their disallowance thereof, the said Act was repealed by Act IX of 1857; and whereas it is expedient, for the encouragement of inventors of new manufactures, that certain exclusive privileges in their inventions should be granted to them in India, and that exclusive

Preamble.

privileges obtained under the said Act should be protected; It is enacted as follows (the sanction of Her Majesty to the passing of this Act having been previously obtained and signified in pursuance of the said Statute):—

1. The inventor of any new manufacture may petition the Governor-General of India in Council for leave to file a specification thereof. Every such petition shall be in writing in the form or to the effect mentioned in the schedule hereunto annexed, and shall be signed by the petitioner, or, in case the petitioner shall be absent from India, by an authorized agent, and shall state the name, addition, and place of residence of the petitioner, and the nature of the invention.

Inventor may petition for leave to file specification.

Form, &c., of petition.

For the purposes of this Act, "new manufacture" shall be deemed to include any new and original pattern or design, or the application of such pattern or design to any substance or article of manufacture.

NOTE.—The last clause of the above section is added by Act XIII of 1872, Section 2.

2. Upon such petition, the Governor-General of India in Council may make an order authorizing the petitioner to file a specification of the invention.

Order to file specification.

3. Before making such order, the Governor-General of India in Council may refer the petition to any person or persons for enquiry and report, and such person or persons shall be entitled to a reasonable fee for such enquiry and report, to be paid by the petitioner; the amount of such fee, in case of dispute, to be settled by a Judge of one of Her Majesty's Courts of Judicature in a summary manner.

Power to refer petition for enquiry and report.

4. If, within the space of six calendar months from the date of such order, the petitioner cause a specification of his invention to be filed in manner hereinafter mentioned, the petitioner, his executors, administrators, or assigns shall be entitled to the sole and exclusive privilege of making, selling, and using the said invention in India, and of authorizing others so to do, for the term of fourteen years from the time of filing such specification, and for such further term (if any), not exceeding fourteen years from the expiration of the first fourteen years, as the Governor-General of India in Council may think fit to direct, upon petition to be presented by such inventor, at any period not more than one year, and not less than six calendar months, before the expiration of the exclusive privilege hereby granted.

Petitioner entitled to exclusive privilege for 14 years from the time of filing specification.

Extension of term of exclusive privilege.

Provided that, in the case of a pattern or design, or the application thereof to any substance or article of manufacture, such privilege shall be granted for the term of three years and no more.

NOTE.—This proviso was added by Act XIII of 1872.

5. An order authorizing the filing of a specification, or for extending the term of such exclusive privilege as aforesaid, may be made subject to any such conditions and restrictions as the Governor-General of India in Council may think expedient.

Order to file specification may be made subject to conditions.

6. Every specification of an invention filed under this Act shall be in writing, and shall be signed by the petitioner, and shall particularly describe and ascertain the nature of the said invention and in what manner the same is to be performed.

Specification to be in writing and to describe the invention.

7. Every petition for leave to file a specification, and every specification filed under this Act, shall be left with the Secretary to the Government of India in the Home Department, and every petition and specification shall be accompanied by a declaration in writing signed by the petitioner in the forms or to the effect mentioned in the schedule hereunto annexed, and if the inventor be absent from India, the petition and specification shall also be accompanied by a declaration signed by the agent who shall present or file the same, to the effect that he verily believes that the declaration purporting to be the declaration of the inventor was signed by him, and that the contents thereof are true, which declaration shall be in the form or to the effect mentioned in the said schedule. The date of the delivery of every such petition and specification shall be endorsed on the same respectively, and shall also be recorded at the office of the said Secretary.

Petition and specification to be left with Secretary to Government.

Petition, &c., to be accompanied by declaration.

Date of delivery to be endorsed on petition.

8. If any person, who shall make a declaration under this Act, shall wilfully and corruptly make any false statement therein, he shall be deemed guilty of perjury, and shall be proceeded against, and, upon conviction, punished accordingly.

False statement in declaration punishable as perjury.

9. No specification shall be filed until the petitioner shall have paid all fees payable under this Act, including the fees (if any) of the person or persons to whom the petition shall have been referred for enquiry and report.

Specification not to be filed before payment of fees.

10. At the time of delivering the specification for the purpose of being filed, the petitioner shall cause to be delivered to the said Secretary five copies thereof, of which—

Copies of specification to be delivered and distributed.

One shall be sent to and filed by one of the Secretaries to the Government of Bengal ;

One shall be sent to and filed by one of the Secretaries to the Government of Fort St. George ;

One shall be sent to and filed by one of the Secretaries to the Government of Bombay ; and

One shall be sent to and filed by one of the Secretaries to the Government of the North-Western Provinces.

A copy of such specification shall be open at all reasonable times at the office of each of the said Secretaries to public inspection upon payment of a fee of one rupee.

To be open to inspection.

11. A book shall be kept in the office of the said Secretary to the Government of India, wherein shall be entered and recorded every such petition and specification, and every order made upon such petition or relating to the invention therein mentioned. Every specification shall be numbered according to the registry of petitions, specifications, &c.

Book for the registry of petitions, specifications, &c.

ing to the order in which it is entered in such book ; and a reference shall be made in such book, in the margin of the entry of each specification, to every order relating to the invention, and to every petition, memorandum, or amended specification which shall be filed under the provisions of Section 14.

12. Such book, or a copy thereof, shall be open at all convenient times for the inspection of any person upon payment of a fee of one rupee ; and the said Secretary shall cause a copy of any entry therein, certified under his hand, to be given to any person requiring the same, on payment of the expense of copying.

13. *Repealed by Act XII of 1876.*

14. If, after the filing of the specification, the petitioner shall have reason to believe that through mistake or inadvertence he has erroneously made any mis-statement in his petition or specification, or included therein something which at the date of his petition was not new or whereof he was not the inventor, or that such specification is in any particular defective or insufficient, he may petition the Governor-General in Council for leave to file a memorandum pointing out such error, or insufficiency, and disclaiming any part of the alleged invention, or, in case of any defect or insufficiency of the specification, for leave to file an amended specification. The petition shall state how the error, defect, or insufficiency occurred, and that it was not fraudulently intended, and shall be accompanied by a declaration in writing signed by the petitioner, and if he be absent from India by his agent, stating that the contents of such petition are true to the best of his knowledge and belief. Upon such petition the Governor-General in Council may make an order allowing such memorandum or amended specification to be filed. All the provisions of Sections 10, 11, 12 and 13, applicable to specifications, shall be applicable to the petitions, orders, and memoranda or amended specifications referred to in this section. An amended specification filed under the provisions of this Act shall, except as to suits or proceedings relating to the exclusive privilege which shall be pending at the time of the filing of such amended specification, have the same effect as if it had been the specification first filed, provided that nothing contained in an amended specification shall extend or enlarge any exclusive privilege before acquired.

No person entitled to exclusive privilege in any of the following cases.

If invention of no utility, or

If the invention, at the time of presenting the petition for leave to file the specification, was not a new invention within the meaning of this Act, or

If petitioner is not inventor, or

If the specification filed or the amended specification (if any) does not particularly describe and ascertain the nature of the invention and in what manner the same is to be performed, or

If specification does not describe the invention.

If the original or any subsequent petition relating to the invention, or the original or any amended specification, contain a wilful or fraudulent mis-statement.

15. No person shall be entitled to any exclusive privilege under the provisions of this Act—

If the invention is of no utility, or

If the invention, at the time of presenting the petition for leave to file the specification, was not a new invention within the meaning of this Act, or

If the petitioner is not the inventor thereof, or

If the specification filed or the amended specification (if any) does not particularly describe and ascertain the nature of the invention and in what manner the same is to be performed, or

If the original or any subsequent petition relating to the invention, or the original or any amended specification, contain a wilful or fraudulent mis-statement.

16. Every exclusive privilege under this Act shall cease if the Governor-General of India in Council shall declare that the same, or the mode in which it is exercised, is mischievous to the State, or generally prejudicial to the public, or if a breach of any special condition on which the petitioner shall be authorised to file a specification, or upon which the term of the exclusive privilege shall be extended, shall be proved to the satisfaction of any of Her Majesty's Courts of Judicature, and if the Governor-General of India in Council shall thereupon declare that such exclusive privilege shall cease.

Exclusive privilege to cease if Government declare it mischievous, &c., to public.
Or if Government, upon breach of condition proved, declare that it shall cease.

17. The importer into India of a new invention shall not be deemed an inventor within the meaning of this Act, unless he be the actual inventor.

18. A foreigner, whether resident abroad or not, may petition for leave to file a specification under this Act.

Foreign inventor.

19. An invention shall be deemed a new invention within the meaning of this Act, if it shall not, before the time of applying for leave to file the specification, have been publicly used in India or in any part of the United Kingdom of Great Britain and Ireland, or been made publicly known in any part of India or of the United Kingdom by means of a publication, either printed or written, or partly printed and partly written. The public use or knowledge of an invention, prior to the application for leave to file a specification, shall not be deemed a public use or knowledge within the meaning of this section, if the knowledge shall have been fraudulently acquired.

An invention not publicly used or known in the United Kingdom or in India before the application for leave to file a specification, to be deemed a new invention within this Act.
Knowledge of invention fraudulently acquired.
obtained surreptitiously or in fraud of the inventor, or shall have been communicated to the public in fraud of the inventor or in breach of confidence; provided the inventor shall, within six calendar months after the commencement of such public use, apply for leave to file his specification, and shall not previously have acquiesced in such public use; provided also, that the use of an invention in public by the inventor thereof, or by his servants or agents, or by any other person by his license in writing for a period not exceeding one year prior to the date of his petition, shall not be deemed a public use thereof within the meaning of this Act.

Proviso.
Public use by inventor.
after the commencement of such public use, apply for leave to file his specification, and shall not previously have acquiesced in such public use; provided also, that the use of an invention in public by the inventor thereof, or by his servants or agents, or by any other person by his license in writing for a period not exceeding one year prior to the date of his petition, shall not be deemed a public use thereof within the meaning of this Act.

20. If an inventor who, prior to the time of applying for leave to file a specification of an invention under this Act, shall have obtained Her Majesty's letters patent for the exclusive use of such invention in the United Kingdom or any part thereof shall, within twelve calendar months from the passing of this Act, or within twelve calendar months from the date of such letters patent, petition the Governor-General of India in Council for leave to file a specification of such invention (which petition shall be in writing in the form or to the effect mentioned in the schedule), the invention shall be deemed a new invention within the meaning of this Act, if it was not publicly known or used in India at or before the date of the petition for such letters patent, notwithstanding it may have been publicly known or used in some part of the United Kingdom or in India before the time of his petition.

Inventor having obtained English letters patent, to petition within 12 months from the passing of this Act or from the date of the letters patent.

Invention, if not publicly known or used in India at the time of applying for such letters patent, to be deemed new.

What to be stated in such petition.

shall state that such letters

Duration of exclusive privilege.

ing, under this Act, for leave to file the specification ; Provided the petition for leave to file the specification shall state that such letters patent have been granted, and shall also state the date thereof and the term during which the same are to continue in force. Provided also that an exclusive privilege obtained under the provisions of this Act, by an inventor who has obtained Her Majesty's letters patent for the exclusive use of such invention, shall cease to have effect, if such letters patent be revoked or cancelled ; and that no such exclusive privilege shall extend beyond the term granted by such letters patent unless the same shall be renewed, in which case the exclusive privilege may be renewed under this Act for the extended term or any part thereof.

21. No exclusive privilege obtained under this Act shall entitle the

Saving of rights of persons who used invention before 7th July 1855.

owner of such privilege to exclude any person from using the invention, who, prior to the 7th day of July 1855, used the same in India.

22. An action may be maintained by an inventor against any person

Action for infringement.

who, during the continuance of any exclusive privilege granted by this Act, shall, without the license of the said inventor, make, use, sell, or put in practice the said invention, or who shall counterfeit or imitate the same. Provided that no such action shall be maintained in any Court other than the principal Court of original jurisdiction in civil cases within the local limits of whose jurisdiction the cause of action shall accrue or the defendant shall reside as a fixed inhabitant.

23. No such action shall be defended upon the ground of any defect

Defect in specification or petition, or want of novelty in invention, &c., no defence to action for infringement.

or insufficiency of the specification of the invention, nor upon the ground that the original or any subsequent petition relating to the invention, or the original or any amended specification, contains a

wilful or fraudulent mis-statement, nor upon the ground that the invention is not useful ; nor shall any such action be defended upon the ground that the plaintiff was not the inventor, unless the defendant shall show that he is the actual inventor or has obtained a right from him to use the invention either wholly or in part. Any such action may be defended upon the ground that the

The actual use of an invention in India or the United Kingdom before date of petition, a defence to such action.

invention was not new, if the person making the defence, or some person through whom he claims, shall before the date of the petition for leave to file the specification, have publicly or actually used in India, or in some part of the United Kingdom, the invention,

or that part of it of which the infringement shall be proved ; but not otherwise.

24. It shall be lawful for any person to apply by motion to any of her

Application to Supreme Courts to declare exclusive privilege not to have been acquired on following grounds.

Majesty's Courts of Judicature for a rule to show cause why the Court should not declare that an exclusive privilege in respect of an invention has not been acquired under the provisions of this Act by reason of all or any of the objections following (to be

specified in the rule), that is to say :—

Invention of no utility.

That the said invention is of no utility, or

That the said invention was not, at the time of presenting the petition

Invention not new.

for leave to file the specification, a new invention within the meaning of this Act, or

Petitioner not the inventor or.

Invention not described in specification.

That the petitioner was not the inventor thereof, or

That the specification filed or the amended specification (if any) does not particularly describe and ascertain the nature of the invention, or in what manner the same is to be performed, or

That the petitioner has knowingly or fraudulently included in the petition or specification or amended specification, as part of his invention, something which was not new or whereof he was not the inventor, or

That the original or any subsequent petition relating to the invention or the original or any amended specification contains a wilful or fraudulent mis-statement, or

That some part of the invention, or the manner in which that part is to be performed, as described in the specification filed or the amended specification, is not thereby sufficiently described and ascertained, and that such defect or insufficiency was fraudulent and is injurious to the public.

25. Any person may, in like manner, apply to any of Her Majesty's Courts of Judicature for a rule to show cause why the Court should not declare that an exclusive privilege has not been acquired under the provisions of this Act in respect of any part of the invention to be specified in the rule by reason of all or any of the objections following (to be specified in the rule), that is to say:—

That such part of the invention is wholly distinct from the other part thereof and is of no utility, or

That such part of the invention was not, at the date of the petition for leave to file the specification, a new invention within the meaning of this Act, or

That the petitioner was not the inventor of that part of the invention, or

That that part of the invention, and the manner in which it is to be performed, is not sufficiently described and ascertained in the specification filed or the amended specification, and that such defect or insufficiency is injurious to the public.

26. It shall be lawful for the Advocate General at any of the Presidencies of Fort William in Bengal, Fort St. George, and Bombay, or any other person, by order of the Governor-General in Council, to apply to any of the said Courts of Judicature for a rule calling upon the petitioner, his executors, administrators, or assigns, to show cause why the question of the breach of any special condition upon which the leave to file a specification has been granted, or any other question of fact on which the revocation of the exclusive privilege by the Governor-General in Council under the power hereinbefore reserved may, in the judgment of the said Governor-General in Council, depend, should not be tried in the form of an issue directed by the said Court; and if the rule be made absolute, the Court, unless the breach or other matter of fact be admitted, may thereupon direct such issue to be tried, and certify the result of such trial to the Governor-General in Council. The costs of such trial, and also the costs of any proceedings in any of the said Courts of Judicature under the provisions of this Act, shall be in the discretion of the Court.

27. Notice of any rule obtained or proceeding taken under either of the last three preceding sections shall be served on all persons appearing to be proprietors or to have shares or interests in the exclusive privilege under the provisions of Section 35 of this Act, and it shall not be necessary to serve such notice on any other persons.

28. Any of the said Courts of Judicature, if it think fit, may direct an issue for the trial, before the same Court or any other Court of Judicature or any principal Court of original jurisdiction in civil cases, of any question of fact arising upon an application under Sections 24, 25, or 26 of this Act, and such issue shall be tried accordingly in a summary manner, and if the issue be directed to another Court, the finding shall be certified by the Court before which the same was tried, to the Court directing the issue. If the issue be directed to any Court of Judicature, the Court by which the issue is tried may, before the finding is certified, direct a new trial of such issue according to the usual course and practice of such Court. If the issue be directed to any Court other than a Court of Judicature, the finding shall not be subject to appeal, but the evidence taken upon the trial shall be recorded, and a copy thereof, certified by the Judge, shall be transmitted, together with any remarks he may think fit to make thereon, to the Court by which the issue was directed; and such Court may either act upon the decision of the Court which tried the issue, or direct a new trial if it shall appear necessary.

29. If it shall appear to any of the said Courts of Judicature at the hearing of any application under the provisions of Section 24 or 25 of this Act that, by reason of any of the objections therein mentioned, the said exclusive privilege in the invention or in any part thereof has not been acquired, the Court shall give judgment accordingly, and shall make such order as to the costs of and consequent upon the application as it may think just: and thereupon the petitioner, his executors, administrators and assigns shall, so long as the judgment continues in force, cease to be entitled to such exclusive privilege.

30. If the Court, at the hearing of any such application as last aforesaid, shall think that the petitioner has, in the description of his invention in the petition or specification or amended specification (if any), included something which at the date of the petition was not new or whereof he was not the inventor, or that the specification is in any particular defective or insufficient, but that the error, defect, or insufficiency was not fraudulently intended, the Court may adjudge the said exclusive privilege to have been acquired and to be valid, save as to the part thereof affected by such error, defect, or insufficiency; or if the Court shall think that the error, defect, or insufficiency can be amended without injury to the public, they may adjudge the exclusive privilege in the whole of the invention to be valid, and may, upon such terms as shall appear reasonable, order the specification to be amended in any of the said particulars; and thereupon the petitioner, his executors, administrators, or assigns shall, within the time limited by the said Court for the purpose, file a specification amended according to such order. Provided that no such amended specification shall have the effect of extending or enlarging the exclusive privilege before acquired.

31. An exclusive privilege shall not be defeated upon the ground that the petition contains a mis-statement, unless such mis-statement was wilful or fraudulent.

Mis-statement, in the petition, if not fraudulent, not to defeat the privilege.

32. Whenever it shall be adjudged by any of the said Courts of Judicature that an exclusive privilege as to the whole or any part of an invention has not been acquired, the said Secretary to the Government of India shall, upon the production of the judgment or order, cause an entry thereof to be made in the said book hereinbefore directed to be kept, and shall cause a reference to such entry to be made in the margin of the entry of the specification contained in such book.

Entry in registry book of judgment, &c., declaring privilege not to have been acquired.

33. If, upon proceedings instituted within two years from the date of a petition to file a specification, the actual inventor shall prove to the satisfaction of the principal Court having jurisdiction in civil cases within the local limits of whose jurisdiction the defendant shall reside as a fixed inhabitant, that the petitioner was not the actual inventor, and that at the time of the petition he knew or had good reason to believe that the knowledge of the invention was obtained by himself or by some other person surreptitiously or in fraud of the actual inventor, or by means of a communication made in confidence by the actual inventor to him or to any person through whom he derived such knowledge, the Court may compel the petitioner to assign to the actual inventor any exclusive privilege obtained under this Act and to account for and pay over the profits thereof.

In what case actual inventor entitled to assignment of an exclusive privilege fraudulently obtained.

34. In any action for the infringement of such exclusive privilege, the plaintiff shall deliver with his plaint particulars of the breaches complained of in the said action; and the defendant shall deliver a written statement of the particulars of the grounds (if any) upon which he means to contend that the plaintiff is not entitled to an exclusive privilege in the invention. In like manner, upon any application to any of the said Courts of Judicature under Sections 24, 25, or 26 of this Act, the applicant shall deliver particulars of the objections on which he means to rely. At the trial of any such action or issue, no evidence shall be allowed to be given in support of any alleged infringement or of any objection impeaching the validity of such exclusive privilege which shall not be contained in the particulars delivered as aforesaid. If it be alleged that the invention was publicly known or used prior to the date of the petition for leave to file such specification, the places where and the manner in which the invention was so publicly known or used shall be stated in such particulars. Provided always that it shall be lawful for any Court in which the action or proceeding is pending, or in which the issue is tried, to allow the plaintiff or defendant respectively to amend the particulars delivered as aforesaid upon such terms as shall seem fit.

Particulars to be delivered.

35. A book shall be kept in the office of the Secretary to the Government of India in the Home Department (such book to be open to inspection without fee), wherein every person filing a specification under this Act, or any person to whom the exclusive privilege may be assigned, shall cause to be stated some place in India where service of any rule or proceedings for the purpose of cancelling or revoking his exclusive privilege may be made, and shall cause a reference to

Service of proceedings.

such entry to be made in the margin of the entry of the specification, and may from time to time cause any other place in India to be substituted by a similar entry and reference. All such rules and proceedings as aforesaid shall be deemed sufficiently served if a copy thereof be left at the place entered in such book, or (if any other place be substituted for the same by entry in the said book) at the place last substituted, by delivering the same to any person resident at or in charge of such place: or, if there be no person resident at or in charge of such place, or if such place be not within the local limits of the jurisdiction of the Court, by causing such rule or proceeding to be sent by post by a registered letter directed to such person at such place: and if any such person shall neglect to make or cause to be made such entry, then service of such rule or proceeding may be effected by affixing a copy thereof to some conspicuous part of the Court-house or in such other manner as the Court may direct.

36. *Repealed by Act XII of 1876.*

37. *Repealed by Act XVIII of 1869.*

37 A. Whenever, by any law for the time being in force in the United Kingdom, any person is entitled in the United Kingdom to an exclusive right in any pattern or design, or in the application of such pattern or design to any substance or article of manufacture, such person shall be entitled in British India to the sole and exclusive right in such pattern or design, or in such application thereof, and shall be entitled in British India to the same civil remedies in respect of any infringement thereof in British India, as those to which he would be entitled in the United Kingdom in respect of an infringement thereof in the United Kingdom.

NOTE.—This new section was added by Act XIII of 1872.

38. In the construction of this Act, the following words and expressions shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction:—

Interpretation.

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number.

Number.

Gender.

Words importing the masculine gender shall include females.

“Invention.”

The word “invention” shall include an improvement.

“Manufacture.”

The word “manufacture” shall be deemed to include any art, process, or manner of producing, preparing, or making an article, and also any article prepared or produced by manufacture.

“Printed.”

The word “printed” shall include “lithographed.”

The words “inventor” and “actual inventor” shall include the “Inventor” and “actual executors, administrators, or assigns of an inventor or actual inventor, as the case may be.

The word “assigns” shall include grantees of the sole use or benefit in India of an invention or of the sole use of an exclusive privilege for a limited time.

“Assigns.”

The word "India" shall mean the territories which are or may become vested in Her Majesty by the Statute 21 and 22 Vic., c. 106, entitled "*An Act for the better government of India.*"

"Governor-General in Council." The words "Governor-General in Council" shall include the "President in Council."

"Secretary to the Government of India." The words "Secretary to the Government of India" shall include any Under-Secretary to the said Government.

"Her Majesty's Court of Judicature." The expressions "Her Majesty's Court of Judicature" and "Courts of Judicature" shall mean the Courts established by Royal Charter.

NOTES.—(a). This Act is declared to be in force throughout the whole of British India, except the Scheduled Districts, by Act XV of 1874. It has also been declared to be in force in certain of the Scheduled Districts of the Punjab, but not in Lahul (*vide* Notes (a) and (b) to Act XIV of 1874).

(b). Act XIII of 1872 and Act XVI of 1883 are to be read with and taken as part of this Act.

SCHEDULE OF FORMS.

FORM OF PETITION—(See Section 1).

TO THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

The petition of (*here insert name, addition, and place of residence*) for leave to file a specification under Act No. XV of 1859.

SHEWETH,

That your petitioner is in possession of an invention for (*state the title of the invention*) which invention he believes will be of public utility; that he is the inventor thereof (*or as the case may be, the assignee or the executor or administrator of the inventor*); and that the same is not publicly known or used in India or in any part of the United Kingdom of Great Britain and Ireland to the best of his knowledge and belief.

The following is a description of the invention (*here describe it*).

Your petitioner therefore prays for leave to file a specification of the said invention pursuant to the provisions of Act No. XV of 1859.

And your petitioner, &c.,

The day of _____ (Signed)

FORM OF DECLARATION TO ACCOMPANY PETITION—(See Section 7).

I (*here insert name, addition, and place of residence*) do solemnly and sincerely declare that I am in possession of an invention for (*state the title of the invention as in the petition*); that I believe the said invention will be of public utility; that I am the inventor thereof (*or, as the case may be, the assignee or executor or administrator of the inventor*), and that the same is not publicly known or used in India or in any part of the United Kingdom or Great Britain and Ireland to the best of my knowledge and belief; and that to the best of my knowledge and belief, my said invention is truly described in my petition for leave to file a specification thereof.

The day of _____ (Signed)

FORM OF DECLARATION TO ACCOMPANY SPECIFICATION—(See Section 7).

I (*here insert name, addition, and place of residence*) do solemnly and sincerely declare that I am in possession of an invention for (*state the nature of the invention*), which invention I believe will be of public utility; that I am the inventor thereof (*or, as the case may be, the assignee or executor or administrator of the inventor*), and that the same is not publicly known or used in India or in any part of the United Kingdom of Great Britain and Ireland to the best of my knowledge and belief; and that to the best of my belief, the instrument in writing under my hand hereunto annexed particularly describes and ascertains the nature of the said invention, and in what manner the same is to be performed.

The day of _____ (Signed)

4. The rules for the institution of suits as provided in Act VIII of 1859 (*for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter*) shall, as far as circumstances will allow, be followed in the investigation of disputes under the preceding sections, and the procedure adopted shall be that provided for cases in which the suit may be disposed of at the first hearing.

NOTE.—Act VIII of 1859 is now superseded by Act XIV of 1882.

No appeal. 5. There shall be no appeal against any decision passed under this Act.

6. The Magistrate, having heard and decided the case, shall make an order for the payment of such sum of money (if any) as shall appear to him to be justly due; and if the person ordered to pay shall make default in the payment of such sum immediately or within such time as the Magistrate shall direct, the Magistrate shall issue his warrant to levy the money by distress and sale of the goods and chattels of the defaulter.

7. If any question shall arise whether any goods or chattels seized under the warrant of distress belong to the defaulter or are liable to be distrained and sold as aforesaid, the same shall be determined in the manner provided by the said Act VIII of 1859 for the determination of the like questions arising in the execution of decrees.

8. Any person who shall voluntarily engage for a stipulated period to work on any railway, canal, or other public work, the construction of which is or shall be sanctioned in the manner specified in Section 1 of this Act, or to execute any specific work in connection with such public work, and who shall wilfully and without lawful or reasonable excuse neglect or refuse to perform the work so stipulated for, shall be liable, on conviction before a Magistrate, to a fine not exceeding twenty rupees. The Magistrate may, at the request of the complainant or of any one authorized to act on his behalf, instead of fining such person, order him to perform or get performed the work according to the terms of his contract or engagement: and if he shall fail to comply with the order, the Magistrate may, upon proof to his satisfaction of such non-compliance, sentence such person to be imprisoned with or without hard labour for any term not exceeding two months.

9. This Act shall take effect only in those districts or places to which it shall be extended by order of the Governor-General of India in Council, or of the executive Government of any presidency or place.

NOTE.—This Act was extended to the Punjab by Notification No. 269, dated 9th May 1860—(*Punjab Gazette of same date, page 191*).

ACT No. XXI of 1860.*(Passed on the 21th May 1860).*

An Act for the Registration of Literary, Scientific, and Charitable Societies.

Whereas it is expedient that provision should be made for improving the legal condition of societies established for the promotion of literature, science, or the fine arts, or for the diffusion of useful knowledge, or for charitable purposes; It is enacted as follows:—

1. Any seven or more persons associated for any literary, scientific, or charitable purpose, or for any such purpose as is described in Section 20 of this Act, may, by subscribing their names to a memorandum of association, and filing the same with the Registrar of Joint-Stock Companies, form themselves into a society under this Act.

NOTE.—The words “Registrar of Joint-Stock Companies” in this section and Section 18 are to be construed to mean Registrar of Joint-Stock Companies under Act VI of 1882, or any Act for the time being in force.—(Section 255 of Act VI of 1882).

Memorandum of association.

2. The memorandum of association shall contain the following things (that is to say):—

The name of the society.

The objects of the society.

The names, addresses, and occupations of the governors, council, directors, committee, or other governing body to whom, by the rules of the society, the management of its affairs is entrusted. A copy of the rules and regulations of the society, certified to be a correct copy by not less than three of the members of the governing body, shall be filed with the memorandum of association.

3. Upon such memorandum and certified copy being filed, the Registrar shall certify under his hand that the society is registered under this Act. There shall be paid to the Registrar for every such registration a fee of fifty rupees, or such smaller fee as the Governor-General of India in Council may from time to time direct; and all fees so paid shall be accounted for to Government.

4. Once in every year, on or before the 14th day succeeding the day on which, according to the rules of the society, the annual general meeting of the society is held, or if the rules do not provide for an annual general meeting, in the month of January, a list shall be filed with the Registrar of Joint-Stock Companies, of the names, addresses, and occupations of the governors, council, directors, committee, or other governing body then entrusted with the management of the affairs of the society.

5. The property, moveable and immovable, belonging to a society registered under this Act, if not vested in trustees, shall be deemed to be vested, for the time being, in the governing body of such society; and in all proceedings, civil and criminal, may be described as the property of the governing body of such society by their proper title.

6. Every society registered under this Act may sue or be sued in the name of the president, chairman, or principal secretary, or trustees, as shall be determined by the rules and regulations of the society, and in default of such determination, in the name of such person as shall be appointed by the governing body for the occasion; provided that it shall be competent for any person having a claim or demand against the society, to sue the president or chairman, or principal secretary, or the trustees thereof, if on application to the governing body some other officer or person be not nominated to be the defendant.

7. No suit or proceeding in any civil Court shall abate or discontinue by reason of the person, by or against whom such suit or proceedings shall have been brought or continued, dying or ceasing to fill the character in the name whereof he shall have sued or been sued, but the same suit or proceeding shall be continued in the name of or against the successor of such person.

8. If a judgment shall be recovered against the person or officer How judgment to be named on behalf of the society, such judgment enforced against society. shall not be put in force against the property, moveable or immovable, or against the body of such person or officer, but against the property of the society. The application for execution shall set forth the judgment, the fact of the party against whom it shall have been recovered having sued or having been sued, as the case may be, on behalf of the society only, and shall require to have the judgment enforced against the property of the society.

9. Whenever by any bye-law duly made in accordance with the rules Society may make bye-law to be enforced. and regulations of the society, or, if the rules do not provide for the making of bye-laws, by any bye-law made at a general meeting of the members of the society convened for the purpose (for the making of which the concurrent votes of three-fifths of the members present at such meeting shall be necessary), any pecuniary penalty is imposed for the breach of any rule or bye-law of the society, such penalty, when accrued, may be recovered in any Court having jurisdiction where the defendant shall reside, or the society shall be situate, as the governing body thereof shall deem expedient.

10. Any member who may be in arrear of a subscription which, Members liable to be sued as strangers. according to the rules of the society, he is bound to pay, or who shall possess himself of or detain any property of the society in a manner or for a time contrary to such rules, or shall injure or destroy any property of the society, may be sued for such arrear or for the damage accruing from such detention, injury, or destruction of property in the manner hereinbefore provided. But if the defendant shall be successful in any suit or other proceeding brought against him at the instance of the society, and shall be adjudged to recover his costs, he may elect to proceed to recover the same from the officer in whose name the suit shall be brought, or from the society, and in the latter case shall have process against the property of the said society in the manner above described.

11. Any member of the society who shall steal, purloin, or embezzle any money or other property, or wilfully and maliciously destroy or injure any property of such society, or shall forge any deed, bond, security for money, receipt, or other instrument, whereby the funds of the society may Members guilty of offences punishable as strangers.

be exposed to loss, shall be subject to the same prosecution, and if convicted shall be liable to be punished in like manner, as any person not a member would be subject and liable to in respect of the like offence.

12. Whenever it shall appear to the governing body of any society registered under this Act, which has been established for any particular purpose or purposes, that it is advisable to alter, extend, or abridge such purpose to or for other purposes within the meaning of this Act, or to amalgamate such society either wholly or partially with any other society, such governing body may submit the proposition to the members of the society in a written or printed report, and may convene a special meeting for the consideration thereof according to the regulations of the society; but no such proposition shall be carried into effect unless such report shall have been delivered or sent by post to every member of the society ten days previous to the special meeting convened by the governing body for the consideration thereof, nor unless such proposition shall have been agreed to by the votes of three-fifths of the members delivered in person or by proxy, and confirmed by the votes of three-fifths of the members present at a second special meeting convened by the governing body at an interval of one month after the former meeting.

13. Any number not less than three-fifths of the members of any society may determine that it shall be dissolved, and thereupon it shall be dissolved forthwith, or at the time then agreed upon, and all necessary steps shall be taken for the disposal and settlement of the property of the society, its claims, and liabilities, according to the rules of the said society applicable thereto, if any, and, if not, then as the governing body shall find expedient, provided that, in the event of any dispute arising among the said governing body or the members of the society, the adjustment of its affairs shall be referred to the principal Court of original civil jurisdiction of the district in which the chief building of the society is situate; and the Court shall make such order in the matter as it shall deem requisite. Provided that no society shall be dissolved unless three-fifths of the members shall have expressed a wish for such dissolution by their votes delivered in person, or by proxy, at a general meeting convened for the purpose. Provided that whenever the Government is a member of, or a contributor to, or otherwise interested in any society registered under this Act, such society shall not be dissolved without the consent of Government.

14. If upon the dissolution of any society registered under this Act, there shall remain, after the satisfaction of all its debts and liabilities, any property whatsoever, the same shall not be paid to or distributed among the members of the said society or any of them, but shall be given to some other society, to be determined by the votes of not less than three-fifths of the members present personally or by proxy at the time of the dissolution, or in default thereof, by such Court as aforesaid; provided, however, that this clause shall not apply to any society which shall have been founded or established by the contributions of shareholders in the nature of a Joint-Stock Company.

15. For the purposes of this Act a member of a society shall be a person who having been admitted therein according to the rules and regulations thereof, shall have paid a subscription, or shall have signed the roll or list of members thereof

and shall not have resigned in accordance with such rules and regulations ; but in all proceedings under this Act no person shall be entitled to vote or be counted as a member whose subscription at the time shall have been in arrear for a period exceeding three months.

16. The governing body of the society shall be the governors, council, directors, committee, trustees, or other body to whom by the rules and regulations of the society the management of its affairs is entrusted.

17. Any company or society established for a literary, scientific, or charitable purpose and registered under Act XLIII of 1850, or any such society established and constituted previously to the passing of this Act, but not registered under the said Act XLIII of 1850, may at any time hereafter be registered as a society under this Act ; subject to the proviso that no such company or society shall be registered under this Act unless an assent to its being so registered has been given by three-fifths of the members present personally, or by proxy, at some general meeting convened for that purpose by the governing body. In the case of a company or society registered under Act XLIII of 1850, the directors shall be deemed to be such governing body. In the case of a society not so registered, if no such body shall have been constituted on the establishment of the society, it shall be competent for the members thereof, upon due notice, to create for itself a governing body to act for the society thenceforth.

18. In order to any such society as is mentioned in the last preceding section obtaining registry under this Act, it shall be sufficient that the governing body file with the Registrar of Joint-Stock Companies a memorandum showing the name of the society, the objects of the society, and the names, addresses, and occupations of the governing body, together with a copy of the rules and regulations of the society certified as provided in Section 2, and a copy of the report of the proceedings of the general meeting at which the registration was resolved on.

NOTE.—See note to Section 1.

19. Any person may inspect all documents filed with the Registrar under this Act on payment of a fee of one rupee for each inspection ; and any person may require a copy or extract of any document, or any part of any document, to be certified by the Registrar, on payment of two annas for every hundred words of such copy or extract ; and such certified copy shall be *prima facie* evidence of the matters therein contained in all legal proceedings whatever.

20. The following societies may be registered under this Act : charitable societies, the military orphan funds or societies established at the several presidencies of India, societies established for the promotion of science, literature, or the fine arts, for instruction, the diffusion of useful knowledge, the foundation or maintenance of libraries or reading-rooms for general use among the members or open to the public, or public museums and galleries of paintings and other works of art, collections of natural history, mechanical and philosophical inventions, instruments, or designs.

NOTE.—This Act is declared to be in force throughout the whole of British India, except the Scheduled Districts, by Act XV of 1874. It has also been declared to be in force in certain of the Scheduled Districts of the Punjab, but not in Lahul (vide Notes (a) and (b) to Act XIV of 1874).

Act No. XXVII of 1860.*(Passed on the 25th June 1860).*

An Act for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons.

Whereas it is expedient to consolidate and amend certain Acts now in force which provide greater security for persons paying to the representatives of deceased Hindoos Muhammadans, and others not usually designated as British subjects, debts which are payable in respect of the estates of such deceased persons, and which facilitate the collection of such debts by removing all doubts as to the legal title to demand and receive the same; It is enacted as follows:—

1. *Repealed by Act XVI of 1874.*

2. No debtor of any deceased person shall be compelled in any Court to pay his debt to any person claiming to be entitled to the effects of any deceased person or any part thereof, except on the production of a certificate to be obtained in manner hereinafter mentioned, or of a probate or letters of administration, unless the Court shall be of opinion that payment of the debt is withheld from fraudulent or vexatious motives, and not from any reasonable doubt as to the party entitled.

3. The District Court within the jurisdiction of which the deceased shall have ordinarily resided at the time of his death, or if at that time he had no fixed place of residence then within the jurisdiction of which any part of the property of the deceased may be found, shall have authority to grant a certificate under this Act. The applicant in his petition shall set forth his title. The Court shall issue notice of application, inviting claimants, and fixing a day for hearing the petition, and upon the appointed day, or as soon after as may be convenient, shall determine the right to the certificate and grant the same accordingly.

Note.—Forms of certificates are printed at the end of the Act.

4. The certificate of the District Court shall be conclusive of the representative title against all debtors to the deceased, and shall afford full indemnity to all debtors paying their debts to the person in whose favor the certificate has been granted.

5. The Court may take such security as it shall think necessary from any person to whom it shall grant a certificate for rendering an account of debts received by him, and for indemnity of persons who may be entitled to the whole or any part of the monies received by virtue of such certificate, whose right to recover the same by regular suit against the holder of the certificate is not affected by this Act.

6. The granting of such certificate may be suspended by an appeal to the Sudder Court, which Court may declare the party to whom the certificate should be granted, or may direct such further proceedings for the investigation of the title as it shall think fit. The Court may also, upon petition, after a certificate shall have been granted by the District

Sudder Court may grant fresh certificate in supersession of the certificate granted by the District Court.

Court, grant a fresh certificate in supersession of the certificate granted by the District Court. Such fresh certificate shall not affect any payments made to the person to whom any former certificate may have been granted, without notice that the same has been superseded, but shall entitle the person named therein to receive all monies that may have been recovered under the first certificate from the person to whom the same may have been granted.

7. Every certificate shall give authority to the person to whom the same is granted throughout the presidency within which the same is granted, and no certificate subsequently granted in respect of the same property shall be valid or effectual, except as hereinafter mentioned.

Local extent of power given by certificate.

8. If the estate of the deceased shall include any Government securities or bank-shares, or any shares in any public company, the certificate may empower the person certified as aforesaid to receive interest or dividends thereon, or on any of them, or to negotiate the same or any of them: in such case the certificate shall describe the securities and shares in respect of which such powers are given, and such powers shall not be vested by the certificate except by express words.

Government securities, bank-shares and shares in public companies.

9. In the case of disputes among persons claiming to be jointly entitled to be proprietors of any Government securities as the representatives of any deceased person, the District Court, whenever sufficient cause shall be shown and on the request of any such claimant, may, so far as concerns the said securities grant a certificate under this Act to such person as shall be from time to time appointed by the Local Government to act as trustee under this section, and shall specify in such certificate the several persons appearing to him to be such proprietors and their several shares; and the said trustee, by virtue of such certificate, shall be entitled to receive and give discharges for the interest accruing due on such securities, and shall account for and pay the sum to the several persons specified in the certificate to be thereunto entitled, according to the shares therein set forth, and shall be empowered to act in all other respects concerning the said securities as agent for such persons, and shall be entitled to receive such commission, not exceeding one per centum, on the sums received and paid by him, as the Local Government shall think fit. Provided nevertheless that the right of any other person to recover the whole or any part of the monies so paid by regular suit against all or any of the persons to whom the same have been paid, shall not be affected by this Act.

Appointment of trustee in case of disputed succession.

Proviso.

10. If any such disputes among persons claiming to be proprietors of Government securities are not ended within two years from the date of the certificate granted under the last preceding section, the said trustee may apportion the principal sum of the said securities rateably among the parties appearing from the certificate to be proprietors thereof, and may apply for and receive new securities from the proper officer appointed to issue the same in the respective names of the several parties certified to be entitled thereto; provided that such new securities shall be issued only according to the rules in use for the regulation and issue of such Government securities, and the

Appropriation if dispute be not settled within two years.

receipt of the said trustee for such new securities, by endorsement on the old securities or otherwise, shall be a legal discharge to the Government against the disputing parties claiming to be entitled to the several amounts for which such securities shall be issued. Provided always that, if the amount of any

Proviso. Government securities in dispute or any part thereof shall not be sufficient to admit of their rateable division according to the rules applicable to the issue of such securities, the said trustee may sell and dispose of the disputed securities, or such part as shall be necessary under this provision, and apportion the proceeds among the parties entitled to receive the same.

11. Every certificate granted to the trustee appointed under Section 9 shall be taken to supersede and annul any previous certificate so far as such previous certificate relates to the said Government securities.

12. When a certificate shall have been granted, in cases in which such certificate would be valid but for the previous grant of a certificate, all payments made to the person holding the latter certificate in ignorance of the grant of the previous certificate shall be held good against claims under such previous certificate.

13. With regard to the property of a deceased Hindoo, Muhammadan, or other person not usually designated by the term "British subject," no certificate in respect of any such property shall be valid if made after a probate or letters of administration granted in respect of the same.

NOTE.—This section has been amended by Act V of 1881, Section 151.

14. Where a certificate shall have been granted, in cases in which such certificate would be valid but for a probate or letters of administration previously granted, all payments made to the person holding the certificate in ignorance of the previous granting of the probate or letters of administration, shall be held good against claims under the probate or letters of administration so previously granted.

15—16. *Repealed by Act V of 1881.*

17. Curators appointed under Act XIX of 1841, who may be invested with certain powers which are conferred on persons obtaining certificates under this Act, shall not exercise any powers which, but for that Act, would lawfully belong to persons obtaining certificates, or to executors or administrators, where a certificate, probate, or letters of administration has been actually obtained; but all persons who may have paid debts or rents to a curator authorized by a Court to receive the same shall be indemnified, and the curator shall be responsible for the payment of the same to the person who has obtained a certificate, the executor or administrator, as the case may be.

18. All probates and letters of administration granted by any Supreme Court of Judicature in cases in which any assets belonging to deceased persons were at the time of their deaths within the local jurisdiction of the Court granting the probate or letters of administration, shall have the effect of

probate and letters of administration granted in respect of the property of British subjects, but for the purpose of the recovery of debts only and the security of debtors paying the same, except so far as is in this Act provided.

19. A certificate of administration granted by the British representative accredited to any foreign Prince or State shall, as regards the residents within the territories of such Prince or State, have the same effect in respect to Government securities as a certificate granted to a native subject of Her Majesty under the provisions hereinbefore contained.

20. Every certificate of administration granted under the last preceding section shall, as regards the Government securities, give authority to the person to whom the same shall be granted throughout the British territories in India, and have the same effect throughout the said territories as a certificate granted under Section 7 of this Act has within the presidency within which the same is granted.

21. Any Court or officer authorized to grant a certificate may from time to time extend the same to any Government security or bank-share not originally specified therein, and every such extension shall have the same effect as if the Government security or bank-share to which the certificate shall be extended had been originally specified therein.

22. Upon the extension of a certificate, security may be required in the same manner as upon the original grant of a certificate.

23. Nothing in this Act contained shall be held to extend to the property of any person usually designated as a British subject.

24. The following words and expressions in this Act shall have the meaning hereby assigned to them, unless there be something in the subject or context repugnant to such construction (that is to say)—

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number.

Words importing the masculine gender shall include females.

The words "District Court" shall mean the principal civil Court of original jurisdiction of a zillah or district.

The words "Sudder Court" shall be deemed to include the highest civil Court of appeal in any part of the British territories in India not subject to the control and superintendence of a Sudder Court.

NOTES.—(a). Act XXIV of 1867, Section 2, repeals this Act, except as to Hindus, Muhammadans, and Buddhists, and persons exempted under the Indian Succession Act (X of 1865), Section 332, from the operation of such Act. Act XXIV of 1867 has since been repealed by Act II of 1874.

(b). Act XXVII of 1860 has been declared to be in force in certain of the Scheduled Districts of the Punjab (vide Notes (a) and (b) to Act XIV of 1874).

(c). The annexed forms of certificate under Act XXVII of 1860, have been prescribed by the Chief Court for the guidance of district officers. They differ only as respects the power given to the holder of the certificate in one case, and not given to him in the other, to negotiate the securities or shares described. The words in the 2nd para. can easily be modified so as to apply to the shares of any public company.

FORM OF CERTIFICATE.

To A. B.

Whereas, in pursuance of the orders of this Court, dated _____, in the matter of the estate of the late _____, this Certificate is granted to you agreeably to the provisions of Act XXVII of 1860. You are hereby authorized and empowered to collect all debts due to the estate of the said _____ giving acquittances for all sums received by you.

You are further empowered to receive interest on the Government notes and dividends
 Government promissory notes noted on the margin, and on the bank shares marginally noted,
 No. _____ of 18 _____ or parts thereof due to the said estate, and to negotiate such
 of the loans for Rs. 0000 securities. You are also empowered to receive any share or
 Share certificates shares or interest or dividends that may be due to the said estates
 Nos. _____ and to negotiate such share or shares.
 of 18 _____
 of the bank, &c.

You shall further adhere strictly to such laws as have been or may be passed by the Governor-General in Council, for the guidance of persons holding certificates for the collection of debts due to the estate of deceased persons.

Seal.

Deputy Commissioner.

FORM OF CERTIFICATE.

To A. B.

Whereas, in pursuance of the orders of this Court, dated _____, in the matter of the estate of the late _____, this certificate is granted to you agreeably to the provisions of Act XXVII of 1860. You are hereby authorized and empowered to collect all debts due to the estate of the said _____ giving acquittances for all sums received by you.

You are further empowered to receive interest on the Government notes and dividends
 * Government promissory notes. noted on the margin, and on the bank shares marginally† noted
 No. _____ of 18 _____ or parts thereof, due to the said estate. You are also empowered
 of the _____ 00 loan to receive any share or shares of such interest or dividends that
 for Rs. 0000 may be due to the said estate.

† Share certificate
 No. _____
 of 18 _____
 of the _____
 Bank &c.

You shall further adhere strictly to such laws as have been, or may be passed by the Governor-General in Council, for the guidance of persons holding certificates for the collection of debts due to the estate of deceased persons.

Seal.

Deputy Commissioner.

ACT No. XXXIV of 1860.

(Passed on the 2nd August 1860.)

An Act to indemnify officers of Government and other persons in respect of fines and contributions levied, and acts done by them during the late disturbances.

Whereas fines and penalties have been imposed and levied by officers of Government in respect of acts committed during the late disturbances; and whereas assessments and

Preamble.

contributions have been made and collected for the reconstruction or repairs of public buildings destroyed or injured during the same period, and for other purposes; and whereas it is expedient to indemnify all officers of Government and other persons acting under the authority of officers of Government from any penalties or proceedings to which they may have rendered themselves liable since the 10th day of May 1857 in respect of the said fines, penalties, assessments, and contributions, and of any other acts which may have been done by them, and which have been or shall be ratified by the executive Government, and to confirm and make valid the levy of the said fines, penalties, assessments, and contributions and the said acts; It is enacted as follows:—

1. All fines, penalties, assessments, and contributions imposed since the 10th day of May 1857 in respect of the destruction or injury of Government or other property, or on any other account connected with the late disturbances, by any officer of Government, or by any person acting under the authority of an officer of Government, shall be deemed to have been duly imposed and levied if the same shall have been levied in pursuance of an order of Government or shall have been or shall be ratified by the executive Government; and all officers of Government and all persons acting under their authority are hereby indemnified and discharged from liability in respect of any such fines, penalties, assessments, and contributions, and levying the same, and no suit or proceeding shall be commenced or prosecuted in respect thereof. Provided that nothing in this Act shall authorize the levy of any fine, penalty, assessment, or contribution not already levied.

Proviso.

2. All acts done since the 10th day of May 1857 in connection with the late disturbances by officers of Government, or by persons acting under their authority or otherwise in pursuance of an order of Government, or which shall have been or shall be ratified by the executive Government, are hereby confirmed and made valid; and all such officers of Government and persons as aforesaid are hereby indemnified and discharged from liability in respect of such acts.

ACT No. V of 1861.

(Passed on the 22nd March 1861).

An Act for the Regulation of Police.

Whereas it is expedient to re-organize the police and to make it a more efficient instrument for the prevention and detection of crime; It is enacted as follows:—

Preamble.

1. The following words and expressions in this Act shall have the meaning assigned to them, unless there be something in the subject or context repugnant to such construction, that is to say:—

Interpretation.

The words "Magistrate of the District" shall mean the chief officer charged with the executive administration of a district and exercising the powers of a Magistrate, by whatever designation the chief officer charged with such executive administration is styled.

"Magistrate of the District."

The word "Magistrate" shall include all persons within the general police district, exercising all or any of the powers of a Magistrate.

The word "police" shall include all persons who shall be enrolled under this Act.

The words "general police district" shall embrace any presidency, province, or place, or any part of any presidency, province, or place in which this Act shall be ordered to take effect.

The word "property" shall include any moveable property, money, or valuable security.

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number.

Words importing the masculine gender shall include females.

The word "person" shall include a company or corporation.

The word "month" shall mean a calendar month.

The word "cattle" shall, besides horned cattle, include elephants, camels, horses, asses, mules, sheep, goats, and swine.

2. The entire police establishment under a Local Government shall, for the purposes of this Act, be deemed to be one police force, and shall be formally enrolled; and shall consist of such number of officers and men, and shall be constituted in such manner, and the numbers of such force shall receive such pay, as shall from time to time be ordered by the Local Government, subject to the sanction of the Governor-General of India in Council.

NOTE.—The police force employed in any cantonment shall be deemed to be part of the general police force within the meaning of this section, and all the provisions of this Act shall be applicable to such force. The administration of the police within the limits of any cantonment in which there is a Cantonment Magistrate shall be vested in the District Superintendent, subject to the general control and direction of the commanding officer of such cantonment.—(See Act III of 1880, S. 9).

3. The superintendence of the police throughout a general police district shall vest in, and, subject to the general control of the Governor-General of India in Council, shall be exercised by the Local Government to which such district is subordinate; and except as authorized under the provisions of this Act, no person, officer, or Court shall be empowered by the Local Government to appoint, supersede, or control any police functionary.

4. The administration of the police throughout a general police district shall be vested in an officer to be styled the Inspector-General of Police, and in such Deputy Inspectors-General, and Assistant Inspectors-General, as to the Local Government shall seem fit. The administration of the police throughout the local jurisdiction of the Magistrate of the District shall, under the general control and direction of such Magistrate, be vested in a District Superintendent

and such Assistant District Superintendents as the Local Government shall consider necessary. The Inspector-General and other officers above-mentioned shall from time to time be appointed by the Local Government, and may be removed by the same authority.

5. The Inspector-General of Police shall have the full powers of a Magistrate throughout the general police district; but shall exercise those powers subject to such limitation as may, from time to time, be imposed by the Local Government.

Inspector-General to have powers of a Magistrate.
To exercise them under the orders of Government.

NOTE.—“The Lieutenant-Governor is pleased to invest the Inspector-General, Deputy Inspectors-General and all District Superintendents of Police with the powers of a Magistrate, defined in Sections 6, 29 and 35 of Act V of 1861 within the limits of the general police district.”—(Notification No. 424, dated 30th August 1861—*Punjab Gazette* of 4th September 1861. page 586).

This notification has been partly modified by subsequent notifications.—See Notification No. 220, dated 19th March 1863—*Punjab Gazette* of 21st idem, and No. 671, dated 1st September 1864—*Punjab Gazette* of 7th idem.

6. Repealed by Act X of 1882.

7. The appointment of all police officers other than those mentioned in Section 4 of this Act shall, under such rules as the Local Government shall from time to time sanction, rest with the Inspector-General, Deputy Inspectors-General, Assistant Inspectors-General, and District Superintendents of Police, who may, under such rules as aforesaid, at any time dismiss, suspend, or reduce any police officer whom they shall think remiss or negligent in the discharge of his duty, or unfit for the same, or fine any police officer to any amount not exceeding one month's pay who shall discharge his duty in a careless or negligent manner, or who by any act of his own shall render himself unfit for the discharge thereof.

Inspector-General &c., to appoint and dismiss.

8. Every police officer, so appointed, shall receive on his appointment a certificate in the form annexed to this Act, under the seal of the Inspector-General or such other officer as the Inspector-General shall appoint, by virtue of which the person holding such certificate shall be vested with the powers, functions, and privileges of a police officer. Such certificate shall cease to have effect whenever the person named in it is suspended or dismissed or otherwise removed from employment in the police force, and shall be immediately surrendered to the superior officer of such person or to some other officer empowered to receive the same.

Police officers to receive certificates of office.

9. No police officer shall be at liberty to withdraw himself from the duties of his office unless expressly allowed to do so by the District Superintendent or by some other officer authorized to grant such permission, or, without the leave of the District Superintendent, to resign his office unless he shall have given to his superior officer notice in writing, for a period of not less than two months, of his intention to resign.

Police officers not to resign without leave or two months' notice.

10. No police officer shall engage in any employment or office whatever other than his duties under this Act, unless expressly permitted to do so in writing by the Inspector-General.

Police officers not to engage in other employment.

11. Repealed by Act XVI of 1874.

12. The Inspector-General of Police may, from time to time, subject to the approval of the Local Government, frame such orders and rules as he shall deem expedient, relative

Inspector-General to make rules.

to the organization, classification, and distribution of the police force, the places at which the members of the force shall reside, and the particular services to be performed by them; their inspection, the description of arms, accoutrements, and other necessities to be furnished to them; the collecting and communicating by them of intelligence and information; and all such other orders and rules relative to the police force as the Inspector-General shall, from time to time, deem expedient for preventing abuse or neglect of duty, and for rendering such force efficient in the discharge of its duties.

13. It shall be lawful for the Inspector-General of Police, or any Deputy Inspector-General, or Assistant Inspector-General, or for the District Superintendent, subject to the general direction of the Magistrate of the District, on the application of any person showing the necessity thereof, to depute any additional number of police officers to keep the peace at any place within the general police district, and for such time as shall be deemed proper. Such force shall be exclusively under the orders of the District Superintendent, and shall be at the charge of the person making the application. Provided that it shall be lawful for the person on whose application such deputation shall have been made, on giving one month's notice in writing to the Inspector-General, Deputy Inspector-General, or Assistant Inspector-General, or to the District Superintendent, to require that the police officers so deputed shall be withdrawn; and such person shall be relieved from the charge of such additional force from the expiration of such notice.

14. Whenever any railway, canal, or other public work, or any manufactory or commercial concern, shall be carried on or be in operation in any part of the country, and Appointment of additional force in the neighbourhood of railway and other works. it shall appear to the Inspector-General that the employment of an additional police force in such place is rendered necessary by the behaviour, or reasonable apprehension of the behaviour, of the persons employed upon such work, manufactory, or concern; it shall be lawful for the Inspector-General, with the consent of the Local Government, to depute such additional force to such place, and to employ the same so long as such necessity shall continue, and to make orders from time to time upon the person having the control or custody of the funds used in carrying on such work, manufactory, or concern, for the payment of the extra force so rendered necessary, and such person shall thereupon cause payment to be made accordingly.

15. It shall be lawful for the Inspector-General of Police, with the sanction of the Local Government, to be notified by proclamation in the *Government Gazette*, and in such other manner as the Local Government shall direct, to employ any police force in excess of the ordinary fixed complement to be quartered in any part of the general police district which shall be found to be in a disturbed or dangerous state, or in any part of the general police district in which, from the conduct of the inhabitants, he may deem it expedient to increase the number of police. The inhabitants of the part of the country described in the notification shall be charged with the cost of such additional police force, and the Magistrate of the District, after enquiry if necessary, shall assess the proportion in which the amount is to be paid by the inhabitants according to his judgment of their respective means.

NOTES.—(a). "When police officers are entertained at the cost of individuals and corporate bodies, under Sections 13, 14, and 15 of Act V of 1861 of the Governor-General of India in Council, or under Sections 14, 15, and 16 of Act VII of 1867 of the Governor of Bombay in Council, an additional charge of one-fourth of the pay of officers, whose pay is not less than

Rs. 100 a month, and of one-eighth of the pay of others, must be defrayed by the persons for whose benefit the officers are employed; provided always that this additional charge shall not be made when such officers are only temporarily engaged, their service not counting for pension."—(Notification No. 1280, dated 27th June 1873—*Punjab Gazette of 3rd July 1873*).

(b). For the rules regarding additional police, see Police Circulars, No. 84 of 1876, and No. 14 of 1883.

16. All monies payable under the last three preceding sections, on account of any additional police force employed as therein directed, shall be recoverable under the warrant of a Magistrate by distress and sale of the goods of the defaulter within the district of such Magistrate, or by suit in any competent Court; and the monies paid on this account or so recovered shall be credited to a fund to be called "The General Police Fund," and shall be applied to the maintenance of the police force under such orders as the Local Government shall pass.

NOTES.—(a). Police Book Circular No. I of 1873 prescribes the procedure to be followed in applying for punitive police posts under this section.

(b). Financial Commissioner's Book Circular No. 16 of 1869, lays down that the cost of the police establishment at a punitive post is to be realized half-yearly in advance along with the land revenue instalments.

17. When it shall appear that any unlawful assembly, or riot, or disturbance of the peace has taken place, or may be reasonably apprehended, and that the police force ordinarily employed for preserving the peace is not sufficient for its preservation and for the protection of the inhabitants and the security of property in the place where such unlawful assembly, or riot, or disturbance of the peace has occurred, or is apprehended, it shall be lawful for any police officer not below the rank of inspector to apply to the nearest Magistrate to appoint as many of the residents of the neighbourhood as such police officer may require to act as special police officers for such time and within such limits as he shall deem necessary; and the Magistrate to whom such application is made shall, unless he see cause to the contrary, comply with the application.

18. Every special police officer so appointed shall have the same powers, privileges, and protection, and shall be liable to perform the same duties, and shall be amenable to the same penalties, and be subordinate to the same authorities as the ordinary officers of police.

19. If any person being appointed a special police officer as aforesaid shall, without sufficient excuse, neglect, or refuse to serve as such, or to obey such lawful order or direction as may be given to him for the performance of his duties, he shall be liable, upon conviction before a Magistrate, to a fine not exceeding fifty rupees for every such neglect, refusal, or disobedience.

20. Police officers enrolled under this Act shall not exercise any authority, except the authority provided for a police officer under this Act and any Act which shall hereafter be passed for regulating criminal procedure.

21. Nothing in this Act shall affect any hereditary or other village police officer, unless such officer shall be enrolled as a police officer under this Act. When so enrolled, such officer shall be bound by the provisions of the last preceding section. No hereditary or other village police officer shall be enrolled without his consent, and the consent of those who have the right of nomination. If any

police officer appointed under Act XX of 1850 *(to make better provision for the appointment and maintenance of police chawkidars in cities, towns, stations, suburbs and bazars, in the Presidency of Fort William in Bengal)* is employed out of the district for which he shall have been appointed under that Act, he shall not be paid out of the rates levied under the said Act for that district.

Police officers to be considered always on duty, and may be employed in any part of the general police district.

22. Every police officer shall, for all purposes in this Act contained, be considered to be always on duty, and may at any time be employed as a police officer in any part of the general police district.

NOTE.—See Police Memo. No. 2015 of 1885.

23. It shall be the duty of every police officer promptly to obey and execute all orders and warrants lawfully issued to him by any competent authority; to collect and communicate intelligence affecting the public peace; to prevent the commission of offences and public nuisances; to detect and bring offenders to justice; and to apprehend all persons whom he is legally authorized to apprehend, and for whose apprehension sufficient ground exists; and it shall be lawful for every police officer, for any of the purposes mentioned in this section, without a warrant, to enter and inspect any drinking shop, gaming house, or other place of resort of loose and disorderly characters.

24. If shall be lawful for any police officer to lay any information before a Magistrate, and to apply for a summons, warrant, search warrant or such other legal process as may by law issue against any person committing an offence.

NOTE.—The words repealed by Act X of 1882 have been omitted.

25. It shall be the duty of every police officer to take charge of all unclaimed property, and to furnish an inventory thereof to the Magistrate of the District. The police officers shall be guided as to the disposal of such property by such orders as they shall receive from the Magistrate of the District.

NOTE.—As to the disposal of property taken charge of under this section, see Judicial Circular No. XLV, paras 28—33.

26. The Magistrate of the District may detain the property, and issue a proclamation, specifying the articles of which it consists, and requiring any person who has any claim thereto to appear and establish his right to the same within six months from the date of such proclamation.

27. If no person shall, within the period allowed, claim such property, it may be sold under the orders of the Magistrate of the District, and the proceeds shall be at the disposal of Government.

28. Every person, having ceased to be an enrolled police officer under this Act, who shall not forthwith deliver up his certificate, and the clothing, accoutrements, appointments, and other necessities which shall have been supplied to him for the execution of his duty, shall be liable, on conviction before a Magistrate, to a penalty not exceeding two hundred rupees, or to imprisonment, with or without hard labor, for a period not exceeding six months, or to both.

29. Every police officer who shall be guilty of any violation of duty, or wilful breach or neglect of any rule or regulation or lawful order made by competent authority ; or who shall withdraw from the duties of his office without permission, or without having given previous notice for the period of two months; or who shall engage without authority in any employment other than his police duty ; or who shall be guilty of cowardice, or who shall offer any unwarrantable personal violence to any person in his custody, shall be liable, on conviction before a Magistrate, to a penalty not exceeding three months' pay, or to imprisonment, with or without hard labour, for a period not exceeding three months, or to both.

30. The District Superintendent and Assistant District Superintendent of Police may, as occasion requires, direct the conduct of all assemblies and processions on the public roads, or in the public streets, or thoroughfares, and prescribe the routes by which, and the times at which, such processions may pass. They may also regulate the use of music in the streets on the occasion of festivals and ceremonies.

31. It shall be the duty of the police to keep order on the public roads, and in the public streets, thoroughfares, ghauts and landing places, and at all other places of public resort, and to prevent obstructions on the occasions of assemblies and processions on the public roads and in the public streets, or in the neighbourhood of places of worship during the time of public worship, and in any case when any road, street, thoroughfare, ghaut, or landing place may be thronged, or may be liable to be obstructed.

32. Every person opposing, or not obeying the orders issued under the last two preceding sections, or violating the conditions of any license granted by the District Superintendent or Assistant District Superintendent of Police for the use of music, or for the conduct of assemblies and processions, shall be liable, on conviction before a Magistrate, to a fine not exceeding two hundred rupees.

33. Nothing in the last three preceding sections shall be deemed to interfere with the general control of the Magistrate of the District over the matters referred to therein.

34. Any person who, on any road* or in any street or thoroughfare within the limits of any town to which this section shall be specially extended by the Local Government commits any of the following offences, to the obstruction, inconvenience, annoyance, risk, danger, or damage of the residents and passengers, shall, on conviction before a Magistrate, be liable to a fine not exceeding fifty rupees, or to imprisonment not exceeding eight days ; and it shall be lawful for any police officer to take into custody, without a warrant, any person who within his view commits any of such offences, namely :—

* The words " any road " mean any road within the limits of any town to which Section 34 has been specially extended by the local Government.—(Letter No. 322, dated 20th January 1861 from Registrar, Chief Court, Punjab, to Inspector-General of Police, Punjab).

First. Any person who slaughters any cattle or cleans any carcass, any person who rides or drives any cattle recklessly or furiously, or trains or breaks any horse or other cattle.

Slaughtering cattle, furious riding, &c.

Cruelty to animals.

Second. Any person who wantonly or cruelly beats, abuses, or tortures any animal.

Third. Any person who keeps any cattle or conveyance of any kind standing longer than is required for loading or unloading or for taking up or setting down passengers, or who leaves any conveyance in such a manner as to cause inconvenience or danger to the public.

Obstructing passengers.

Exposing goods for sale.

Fourth. Any person who exposes any goods for sale.

Fifth. Any person who throws or lays down any dirt, filth, rubbish, or any stones or building materials; or who constructs any cowshed, stable, or the like, or who causes any offensive matter to run from any house, factory, dung-heap, or the like.

Throwing dirt into street.

Being found drunk in any thoroughfare.

Sixth. Any person who is found drunk, or riotous, or who is incapable of taking care of himself.

Indecent exposure of person.

Seventh. Any person who wilfully and indecently exposes his person, or any offensive deformity or disease, or commits nuisance by casing himself, or by bathing or washing in any tank or reservoir not being a place set apart for that purpose.

Neglect to protect dangerous places.

Eighth. Any person who neglects to fence in, or duly to protect, any well, tank, or other dangerous place or structure.

NOTES.—(a). The Local Government may extend Section 34 to any Military Cantonment situate in the territories under such Government.—(Act III of 1880, Section 10).

(b). “Applications are often made to the Government to extend Section 34 of Police Act V of 1861, to towns and villages at which there is no resident Magistrate.

“2. In order to prevent unnecessary references, His Honor the Lieutenant-Governor desires it to be understood that he is not prepared to sanction the extension of the section in such cases. Section 34 deals with nuisances, obstructions, and petty offences in which the police are thereby empowered to interfere. Such interference is reasonable in a town where there may be a resident Magistrate, stipendiary or honorary; but where this is not the case, His Honor considers it a hardship that persons charged with trivial offences punishable with a small fine, should be taken long distances to a Magistrate in custody of the police.”—(Punjab Government Circular No. 69—2701, dated 8th August 1872, to all Commissioners and Superintendents in the Punjab).

(c). The provisions of this section have been extended to the undermentioned places by order of the local Government:—

All sadr and out-stations under the Punjab Government including the cities and towns adjacent to them, from the 1st July 1861.—(Notification No. 442, dated 22nd June 1862—Punjab Gazette of 26th idem, page 394).

All Military Cantonments in the Punjab.—(Notification No. 86, dated 16th January 1865—Punjab Gazette of 18th idem, page 50).

Under the power granted in Section 40 of Act IV of 1872, the Lieutenant-Governor has invested, in all Military Cantonments in the Punjab, such members of the general conservancy establishment as the several cantonment committees shall determine with the powers of a police officer, for the cognizance of the offences described in Section 34 of Act V of 1861.—(Notification No. 857, dated 9th March 1876—Punjab Gazette of same date, page 107).

S. 34 has also been extended to the following towns:—

District.	Place or town.	Notification.
Gurgaon	Palwal	No. 1160, dated 16th August 1870, <i>Punjab Gazette of 25th idem.</i>
	Firozpur	
	Nuh	
	Rewari	
	Farakhnaggar	No. 579, dated 6th February 1874, <i>Punjab Gazette of 12th idem.</i>
Karnal	Panipat	No. 1132, dated 1st September 1866, <i>Punjab Gazette of 6th idem.</i>
Hissar	Bhiwani	No. 1578, dated 1st November 1867, <i>Punjab Gazette of 7th idem.</i>
	Fattiabad	
	Barwala	
	Tohanna	
	Hansi	No. 3491, dated 24th September 1874, <i>Punjab Gazette of 1st October.</i>
Sirsa	Fazilka	No. 1578, dated 1st November 1867, <i>Punjab Gazette of 7th idem.</i>
	Kharral	
	Rania	
Rohtak	Badli	Ditto.
	Bori	
	Bahadurgarh	
	Gohannah	
	Kharkhanda	
	Mehim	
	Jhajjar	No. 122, dated 3rd February 1871, <i>Punjab Gazette of 9th idem.</i>
Umballa	Rupar	No. 1269, dated 4th September 1871, <i>Punjab Gazette of 7th idem.</i>
	Kharrar	
	Manni Majra	
	Buria	
	Thanesar	
	Jagadhri	
Ferozepore	Jelalabad (Mundot territory).	No. 169, dated 6th March 1882, <i>Punjab Gazette of 25th idem.</i>
	Zira	No. 226, dated 19th January 1877, <i>Punjab Gazette of 9th idem.</i>
Gurdaspur	Batala	No. 4132, dated 12th November 1879, <i>Punjab Gazette of 13th idem.</i>
	Pathankoto	
Simla	Kalka	No. 1318, dated 10th September 1867, <i>Punjab Gazette of 19th idem.</i>
Ludhiana	Jagraon	No. 3900, dated 20th October 1873, <i>Punjab Gazette of 23rd idem.</i>
Jullundur	Alawulpur	No. 1284, S., dated 10th September 1885, <i>Punjab Gazette of same date.</i>
	Kartarpur	
	Adampur	
	Bungah	
	Nawashahr	No. 1606, dated 16th November 1867, <i>Punjab Gazette of 21st idem.</i>
	Rahon	
	Nurmahal	
	Nakodar	
	Shahkot	No. 424, dated 5th April 1866, <i>Punjab Gazette of 12th idem.</i>
	Phillour (fort, town and cantonment)—	
Amritsar	Tarn Taran	No. 3778, dated 17th October 1874, <i>Punjab Gazette of 22nd idem.</i>
Sialkot	Pasrur	No. 924, dated 6th July 1868, <i>Punjab Gazette of 16th idem.</i>
	Zafarwal	
	Duskah	
Lahore	Chunian	No. 215, dated 20th February 1871, <i>Punjab Gazette of 2nd March 1871.</i>
	Ganj	No. 1113, dated 21st March 1877, <i>Punjab Gazette of 22nd idem.</i>
	Mian Meer (Village)	No. 2808, dated 18th July 1878, <i>Punjab Gazette of 25th idem.</i>

<i>District.</i>	<i>Place or town.</i>	<i>Notification.</i>
Gujranwala	{ Hafizabad	{ No. 215, dated 20th February 1871. <i>See</i> also No 3745, dated 7th October 1873. No. 2291, dated 1st July 1872, <i>Punjab Gazette</i> of 4th idem. No. 3736, dated 15th October 1874, <i>Punjab Gazette</i> of 22nd idem.
	{ Wazirabad	
	{ Akalgarh	
Rawalpindi	{ Kahuta	{ No. 1860, dated 9th May 1873, <i>Punjab Gazette</i> of 15th idem.
	{ Fattejang	
	{ Pindi Gheb	{ No. 1616, dated 15th November 1870, <i>Punjab Gazette</i> of 24th idem.
	{ Gujar Khan	
	{ Kallar	
	{ Sukho	
	{ Hazro	{ No. 2718, dated 25th July 1879, <i>Punjab Gazette</i> of 31st idem.
	{ Hassan Abdal	
	{ Jhanda	
Jhelum	{ Marir	{ No. 1671, dated 29th November 1870, <i>Punjab Gazette</i> of 8th December 1870. No. 1749, dated 14th December 1871, <i>Punjab Gazette</i> of 21st idem. No. 578, dated 1st May 1869, <i>Punjab Gazette</i> of 6th idem.
	{ Kala	
	{ Chakowal	
Shahpur	{ Talagang	{ No. 386, dated 23rd March 1869, <i>Punjab Gazette</i> of 25th idem.
	{ Bhera	
	{ Sahiwal	
	{ Miani	{ No. 1177, dated 8th April 1872, <i>Punjab Gazette</i> of 11th idem.
	{ Khushab	
Bannu	{ Shahpur	{ No. 3968, dated 23rd October 1873, <i>Punjab Gazette</i> of 30th idem.
	{ Bahkhar	
	{ Edwardesabad	
Dera Ismail Khan	{ Lakkhi	{ Ditto.
	{ Isa Khel	
	{ Dera Ismail Khan	
	{ Bhakkar	
	{ Leiah	
Dera Ghazi Khan	{ Kolachi	{ No. 3968, dated 23rd October 1873, <i>Punjab Gazette</i> of 30th idem.
	{ Tank	
	{ Dera Ghazi Khan	
Hazara	{ Rajanpur	{ No. 2506, dated 7th July 1881, <i>Punjab Gazette</i> of 14th idem. No. 776, S. dated 22nd July 1885, <i>Punjab Gazette</i> of 23rd idem.
	{ Jampur	
	{ Mansabra	
Mooltan	{ Haripur	{ No. 3592, dated 30th June 1871, <i>Punjab Gazette</i> of 6th July 1871. No. 30, dated 2nd January 1874, <i>Punjab Gazette</i> of 8th idem.
	{ Mailsi	
	{ Sarai Sidhu	
Musaffargarh	{ Lodhran	{ No. 3593, dated 30th June 1871, <i>Punjab Gazette</i> of 6th July 1871.
	{ Shujahabad	
	{ Khangarh	
Jhang	{ Alipur	{ No. 1559, dated 4th April 1871, <i>Punjab Gazette</i> of 6th idem. No. 131, dated 7th July 1883, <i>Punjab Gazette</i> of 12th idem.
	{ Chiniot	
	{ Shorkot	
Montgomery	{ Garh Maharaja	{ No. 17, dated 4th January 1870, <i>Punjab Gazette</i> of 6th idem.
	{ Pakpatan	
	{ Dipalpur	
	{ Hujrah	

(d.) In exercise of his powers under the Foreign Jurisdiction and Extradition Act, 1879.

and the Police Act V of 1861, the Governor-General in Council is pleased to extend the provisions of Section 34 of the latter Act to the following bazars, namely :—

- (a) the bazars in the Bolan ;
- (b) the bazars on the Harnai route ; and
- (c) the civil bazars attached to the fort of Peshin, and the frontier posts at Sibi and Thal Chotiali.

(Government of India Notification No. 1876, E., dated 13th August 1886, Gazette of India of 14th idem).

35. Any charge against a police officer above the rank of a constable under this Act shall be enquired into and determined only by an officer exercising the powers of a Magistrate.

Jurisdiction.

NOTE.—The words in this section repealed by Act X of 1882 have been omitted.

36. Nothing contained in this Act shall be construed to prevent any person from being prosecuted under any other Regulation or Act for any offence made punishable by this Act, or from being liable under any other Regulation or Act to any other or higher penalty or punishment than is provided for such offence by this Act. Provided that no person shall be punished twice for the same offence.

Power to prosecute not affected.

Regulation or Act to

Proviso.

37. All forfeitures or penalties imposed under the authority of this Act for offences punishable by a Magistrate may, in case of non-payment thereof, be levied by distress and sale of the property of the offender within the limits of the jurisdiction of the Magistrate of the District, by warrant under the hand of the Magistrate who made the order.

Levy of forfeiture and penalties by distress.

NOTE.—The Governor-General in Council has ordered that all fines levied under Act V of 1861, on account of nuisances committed within municipal limits, are to be credited to Municipal Funds.—(Notification No. 6680, dated 21st November 1874).

38. In case any such forfeiture or penalty shall not be forthwith paid, the Magistrate may order the offender to be apprehended and detained in safe custody until the return can be conveniently made to such warrant of distress, unless the offender shall give security to the satisfaction of the Magistrate for his appearance at such place and time as shall be appointed for the return of the warrant of distress.

Procedure until return is made to warrant of distress.

39. If upon the return of such warrant it shall appear that no sufficient distress can be had whereon to levy such fine, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of the Magistrate, by the confession of the offender or otherwise, that he has not sufficient property whereupon such fine or sum of money could be levied if a warrant of distress were issued, the Magistrate may, by warrant under his hand, commit the offender, provided he is not a European British subject, to prison, there to be imprisoned, according to the discretion of the Magistrate, for any term not exceeding two calendar months when the amount of fine shall not exceed fifty rupees, and for any term not exceeding four calendar months when the amount shall not exceed one hundred rupees, and for any term not exceeding six calendar months in any other case, the commitment to be determinable in each of the cases aforesaid on payment of the amount.

Imprisonment if distress not sufficient.

40. If the offender be a European British subject, the Magistrate shall record the facts and transmit such record to the District Court of the district wherein the offender is convicted, and the amount of the fine and costs (if any) shall be levied in the manner provided for the execution of decrees of the civil Court.

Levy of fines from European British subjects.

41. All sums paid for the service of process by police officers, and all rewards, forfeitures and penalties, or shares of rewards, forfeitures and penalties, which by law are payable to informers, shall, when the information is laid by a police officer, be paid into the general police fund.

Rewards to police and informers payable to general police fund.

42. All actions and prosecutions against any person, which may be lawfully brought for any thing done or intended to be done under the provisions of this Act, or under the general police powers hereby given, shall be commenced within three months after the act complained of shall have been committed and not otherwise; and notice in writing of such action and of the cause thereof shall be given to the defendant, or to the District Superintendent or an Assistant District Superintendent of the district in which the act was committed, one month at least before the commencement of the action. No plaintiff shall recover in any such action if tender of sufficient

Tender of amends.

amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into Court after such action brought, by or on behalf of the defendant, and though a decree shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant, unless the Judge before whom the trial is held shall certify his approbation of the action. Provided always that no action

Proviso.

shall in any case lie where such officers shall have been prosecuted criminally for the same act.

NOTE.—So much of this section as relates to the limitation of suits is repealed by Act IX of 1871.

43. When any action or prosecution shall be brought or any proceedings held against any police officer for any act done by him in such capacity, it shall be lawful for him to plead that such act was done by him under the authority of a warrant issued by a Magistrate. Such plea shall be proved by the production of the warrant directing the act, and purporting to be signed by such Magistrate, and the defendant shall thereupon be entitled to a decree in his favor, notwithstanding any defect of jurisdiction in such Magistrate. No proof of the signature of such Magistrate shall be necessary, unless the Court shall see reason to doubt its being genuine. Provided always

Proviso.

that any remedy which the party may have against the authority issuing such warrant shall not be affected by anything contained in this section.

44. It shall be the duty of every officer in charge of a police station to keep a general diary in such form as shall, from time to time, be prescribed by the Local Government, and to record therein all complaints and charges preferred, the names of all persons arrested, the names of the complainants, the offences charged against them, the weapons or property that shall have been taken from their possession or otherwise, and the names of the witnesses who shall have been examined. The Magistrate of the District shall be at liberty to call for and inspect such diary.

NOTE.—The rules concerning the system of record at police stations are contained in Police Circular No. 40 of 1876, dated 2nd September 1876.

- 45.** The Local Government may direct the submission of such returns by the Inspector-General and other police officers as to such Local Government shall seem proper, and may prescribe the form in which such returns shall be made.

Local Government empowered to prescribe the form of returns.

NOTE.—“The Lieutenant-Governor observes that it is very desirable that Government should receive as prompt information of the occurrence of serious crime in the districts comprised within the Peshawar and Derajat divisions as in those included within the general police district. He directs, accordingly, that the Deputy Commissioners of Hazara, Kohat, Bannu, Dera Ismail Khan, and Dera Ghazi Khan, and the District Superintendent of Peshawar, shall, on receiving information of the perpetration of any offence mentioned in the subjoined schedule, submit a special report, in the form prescribed for the organized police, to the Commissioner of the Division and to the Under-Secretary to Government in the Police Department.

2. “The rules issued from time to time by the Inspector-General of Police as to the contents, preparation, despatch and mode of recording special reports are to be considered applicable to the Derajat and Peshawar divisions.

SCHEDULE.

- * 1.—Robbery of the mail.
- * 2.—Robbery of European travellers.
- * 3.—Highway robbery when the loss is more than Rs. 100, or when accompanied with unusual violence.
- * 4.—Murder, and all offences accompanied with murder.
- * 5.—Culpable homicide or attempt to commit culpable homicide or grievous hurt by a religious fanatic.
- * 6.—Dakaiti and violent outrage.
- * 7.—Administering stupefying drug with intent to cause hurt.
- 8.—Report of all cases that would have been dealt with by the thaggi department, to be made either when the case is complete or the police baffled.
- 9.—Malicious injury to a line of telegraph.

“All translated special reports to be accompanied with a descriptive roll of the accused, whenever the information is forthcoming. In political cases this course is also to be adopted.”
—(Resolution of the Government of the Punjab—No. 4089, dated 25th August 1871).

46. This Act shall not take effect in any presidency, province, or place, unless the same shall be extended to such presidency, province, or place by the Governor-General of India in Council by an order to be published in the *Government Gazette*. When the Act shall have been so extended it shall be carried into effect in such presidency, province, or place as the Local Government, by an order to be published in the official Gazette, shall direct.

NOTES.—(a).—The Governor-General in Council is pleased to extend Act No. V of 1861, being an Act for the Regulation of Police, to the under-mentioned districts within the Lieutenant-Governorship of the Punjab :—

Delhi.	Jullundur.	Ferozepore.	Gujrat.
Karnal.	Hoshiarpur.	Gujranwala.	Shahpur.
Gurgaon.	Kangra.	Amritsar.	Mooltan.
Umballa.	Hissar.	Gurdaspur.	Jhang.
Simla.	Rohtak.	Sialkot.	Gugaira (Montgomery).
Ludhiana.	Sirsa.	Rawalpindi.	Muzaffargarh.
Thanesar.	Lahore.	Jhelum.	

(Notification No. 971, dated 15th May 1861—*Calcutta Gazette* of 18th idem, p. 1302).

(b). The Honorable the Lieutenant-Governor is pleased to direct that Act V of 1861 shall be carried into effect in the undermentioned Divisions :—

Delhi.	Cis-Sutlej States.	Amritsar.	Mooltan.
Hissar.	Trans-Sutlej States.	Lahore.	Rawalpindi.

These divisions will form the “General Police District” as defined in Section 1 of the Act.
—(Notification No. 424, dated 30th August, 1861—*Punjab Gazette* of 4th September 1861, p. 586).

(c). The Lieutenant-Governor, in exercise of the authority vested in him under Rule XII of the regulation for the peace and government of the districts comprised in the Peshawar and Derajat divisions, published under the Notification by the Government of

India, in Foreign Department, No. 31 P., dated the 5th January 1872, has extended the provisions of this Act to the Districts of Házara, Pesháwar, Kohát, Bannu, Dera Ismail Khan and Dera Ghazi Khan, subject to the limitations specified in the aforesaid rule, namely:—

(1).—Such portion of the duties of the Inspector-General of Police as refer to inspection, pay and clothing, will be performed in these districts by the Inspector-General of Police, Punjab.

(2).—All other duties ordinarily performed by the Inspector-General will be performed by the Commissioners of Pesháwar and the Derájat, who will exercise the powers of an Inspector-General within the limits of their respective divisions.

(3).—The Deputy Commissioners of the districts above specified will be *ex-officio* Deputy Inspectors-General within the limits of their respective districts, without prejudice to their exercise of all the powers of a Magistrate. In the districts of Házara and Kohát the Deputy Commissioners will for the present exercise the powers of District Superintendent, in addition to those of Deputy Inspector-General.—(Notification No. 2935, dated 4th August 1873—*Punjab Gazette of 7th idem*).

(d).—On and after the 1st April 1870 that there will be three Circles of Police supervision as follows:—

The Umballa Circle.

Consisting of the undermentioned districts:—

Umballa.	Ludhiana.	Simla.	Dehli.	Gurgaon.
Karnal.	Hissar.	Rohtak.	Sirsa.	Ferozepore.

The Lahore Circle.

Consisting of the districts after named:—

Lahore.	Amritsar.	Gurdaspur.	Jullundur.	Hoshiarpur.
Kangra.	Mooltan.	Montgomery.	Muzaffargarh.	Jhang.

The Rawalpindi Circle.

Consisting of the under-noted districts:—

Rawalpindi.	Gujrat.	Gujranwala.
Jhelum.	Shahpur.	Sialkot.

(Notification No. 851, dated 28th March 1870—*Punjab Gazette of 31st idem*).

47. It shall be lawful for the Local Government, in carrying this Act

Authority of District Superintendent of Police over village police. into effect in any part of the territories subject to such Local Government, to declare that any authority which now is or may be exercised by the Magistrate of the District over any village watchman or other village police officer for the purposes of police, shall be exercised, subject to the general control of the Magistrate of the District, by the District Superintendent of Police.

NOTES.—(a). It has been notified under this section that any authority which is now exercised by the Magistrate of the Rawalpindi district over the chaukidars of Attock and Hassan Abdál, shall be exercised, subject to the general control of the Magistrate of the District, by the District Superintendent of Police, Rawalpindi.—(Notification No. 542, dated 8th April 1867—*Punjab Gazette of 11th idem*, page 303. See also No. 3084, dated 4th November 1872—*Punjab Gazette of 7th idem*).

(b). The Lieutenant-Governor has declared that, in the towns of Sambrial Kallawalla, Nunar, Sairainwalli, Sankhatra, Mitranwali, Badduwali and Wadala in the Sialkot district, the authority which may be exercised over the village police officers (whose appointment has recently been sanctioned) by the Magistrate of the District, shall, subject to the general control of such Magistrate, be exercised by the District Superintendent of Police.—(Notification No. 5624, dated 14th November 1871).

FORM (See Section 8).

A. B. has been appointed a member of the police force, under Act V of 1861; and is vested with the powers, functions, and privileges of a police officer.

“RESOLUTION.—Under Section 2 of Act V of 1861, the entire police establishment under a Local Government is to be deemed, for the purposes of the Act, to be one police force, and such establishment includes, in addition to imperial police in military cantonments (*vide* Section 11 of Act XXII of 1864), police maintained in towns by the Local Government from funds supplied by municipal Committees under the provisions of Section 12 of Act IV of 1873, and ferry police.

"2. But though such has been the legal position of the cantonment, municipal, and ferry police of the Province, and though such police have been in fact enrolled under Act V of 1861 and may thus under Section 22 of this Act be employed in any part of the general police district, yet practically, the several bodies of imperial, cantonment, municipal, and ferry police have been kept distinct, owing to the fact that the rates of pay have varied, and that the Government did not undertake the payment of the pensions of other than imperial police. But under the operation of Government of India's Resolution in the Financial Department, No. 2091, dated 19th July 1871, the pensions of all police enrolled under Act V of 1861, except railway police, will be defrayed by Government; and the pay and allowances of cantonment, municipal, and ferry police have now been placed on precisely the same footing as those of the imperial establishment. It is, therefore, possible under present circumstances to make the cantonment, municipal, and ferry police establishments of the province practically as well as legally a part of the general police force of the Government; in other words to amalgamate these various bodies into one force.

"3. The advantages of such an arrangement are great. By making the members of district, cantonment and municipal police, respectively, readily interchangeable, a greater field for promotion is open to the latter, while cantonment and municipal police can thus be selected from a wider area; and, further, administrative arrangements will be greatly simplified, as in lieu of keeping up, as at present, separate rolls and separate accounts for each cantonment, town or ferry, there will be one roll and one account for each district of the province.

"4. At the same time the orders now in force, by which municipal police are strictly confined to municipal duties, and municipal committees are secured a voice in determining the police requirements of towns, need not be in any way affected.

"5. It is therefore resolved that, on and after 1st April 1875—

I.—All imperial, cantonment, municipal, and ferry police employed in a district shall be borne on one roll and their pay drawn in one abstract.

II.—In lieu of the present system of payment by cantonment and municipal committees, each committee will pay into the Government treasury a monthly sum equal to one-twelfth of the amount assigned for the year for police purposes.

III.—In order that committees may be satisfied that the sanctioned establishment is duly maintained in the cantonment or municipality for which they are appointed, each committee shall be furnished by District Superintendents with a monthly statement showing the strength and distribution of police employed within the local limits of its jurisdiction.

"6. Nothing in the above shall be deemed to affect the orders contained in paragraph 11 of this office circular, No. 31 of 23rd May 1874, save that deductions and savings will not, as at present, be credited monthly to the Municipal Fund, but a memorandum of the amounts of such savings will be furnished monthly to municipal committees by District Superintendents, together with the distribution statement; and no expenditure shall be made from such savings except with the concurrence of the municipal committee concerned.

"7. This arrangement, while preventing complications of account, will fully secure to municipal committees the benefit of police savings."—(*Proceedings of the Lieutenant-Governor of the Punjab in the Home Department, No. 61, dated 5th January 1875*).

ACT No. IX of 1861.

(Passed on the 24th April 1861).

An Act to amend the law relating to Minors.

Whereas it is expedient to amend the law for hearing suits relative to the custody and guardianship of minors; It is enacted as follows:—

Preamble.

1. Any relative or friend of a minor who may desire to prefer any claim in respect of the custody or guardianship of such minor may make an application by petition,

Application.

either in person or by a duly constituted agent, to the principal civil Court of original jurisdiction in the district by which such application, if preferred in the form of a regular suit, would be cognizable, and shall set forth the grounds of his application in the petition. The Court, if satisfied by an

examination of the petitioner or his agent, if he appear by agent, that there is ground for proceeding, shall give notice of the application to the person named in the petition as having the custody or being in possession of the person of such minor, as well as to any other person to whom the Court may think it proper that such notice should be given, and shall fix as early a day as may be convenient for the hearing of the petition and the determination of the right to the custody or guardianship of such minor.

2. The Court may direct that the person having the custody or being in possession of the person of such minor shall produce him or her in Court or in any other place appointed by the Court on the day fixed for the hearing of the petition or at any other time, and may make such order for the temporary custody and protection of such minor as may appear proper.

3. On the day appointed for the hearing of the petition, or as soon after as may be practicable, the Court shall hear the statements of the parties or their agents, if they appear by agents, and such evidence as they or their agents may adduce, and thereupon shall proceed to make such order as it shall think fit in respect to the custody or guardianship of such minor and the costs of the case.

4. In cases instituted under this Act, the Court shall be guided by the procedure prescribed in Act VIII of 1859 (for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter) in so far as the same shall be applicable and material; and any order made by the Court may be enforced as if such order had been made in a regular suit.

NOTE.—Act VIII of 1859 has been superseded by Act XIV of 1882.

5. An appeal shall lie to the Sadr Court from any order made by a lower Court under this Act, under the rules applicable to regular appeals to such Sadr Court, except that the petition of appeal may be written on a stamp paper of the value prescribed for petitions to the Sadr Court.

6. Any order passed under this Act in respect to the custody or guardianship of a minor, shall not be liable to be contested in a regular suit.

7. Nothing in this Act shall be taken to interfere with the jurisdiction exercised under the laws in force by any Supreme Court of Judicature or the Courts of Wards; or under Act XXI of 1855 (for making better provision for the education of male minors, and the marriage of male and female minors, subject to the superintendence of the Court of Wards in the Presidency of Fort Saint George), and Act XL of 1858 (for making better provision for the care of the person and property of minors in the Presidency of Fort William in Bengal).

NOTE.—The guardianship of European British minors is now provided for by Act XXIII of 1874.

8. The term “Sadr Court” in this Act shall denote the highest Court of appeal in any part of the British territories in India.

NOTE.—This Act is declared to be in force throughout the whole of British India, except the Scheduled Districts, by Act XV of 1874. It has also been declared to be in force in certain of the Scheduled Districts of the Punjab (vide Notes (a) and (b) to Act XIV of 1874).

ACT No. XVI of 1861.

(Passed on the 7th July 1861).

An Act for licensing and regulating Stage Carriages.

Preamble.

Whereas it is expedient to license and to regulate stage carriages in British India; It is enacted as follows :—

1. Every carriage drawn by one or more horses which shall ordinarily be used for the purpose of conveying passengers for hire to or from any place in British India, shall without regard to the form or construction of such carriage be deemed to be a stage carriage within the meaning of this Act. Provided that this Act shall not apply to carriages not ordinarily used for journeys of a greater distance than twenty miles.

NOTE.—“Draws attention to the Act for licensing and regulating stage carriages, and informs him that the Act will apply at present *only* to the Dak Companies. Owners of ekkas are excluded from the operation of the Act at present.”—(No. 1344, dated 16th August 1861, from Secretary to Government, Punjab, to Inspector-General of Police, Punjab.)

Grant of licenses.

2. No carriage shall be used as a stage carriage unless licensed by a Magistrate or by the Chief Commissioner of Police of a presidency town.

NOTES.—(a.) Applications for licenses may be addressed for the present to the Deputy Commissioners of—

Dehli,	Umballa,	Amritsar,	Mooltan,
Karnal,	Jullundur,	Lahore,	

who have been specially authorized on that behalf by the Government.—(Notification No. 1626, dated 13th August 1861—Punjab Gazette of 21st idem, page 538).

(b.) The Deputy Commissioners of Ludhiana and Ferozepore are also authorized to grant licenses for running stage carriages.—(Notification No 182, dated 16th February 1871—Punjab Gazette of 23rd idem, page 189).

(c.) The following officers have also been authorized to grant licenses under the provisions of this Act—

The Deputy Commissioner of Gurdaspur for the time being.—(No. 3698, dated 8th October 1875—Punjab Gazette of 14th idem).

The Deputy Commissioner of Rohtak for the time being.—(No. 4118, dated 9th November 1875—Punjab Gazette of 11th idem).

The Deputy Commissioner of Rawalpindi.—(No. 1214, dated 7th June 1882—Punjab Gazette of 8th idem).

The Deputy Commissioner of Simla.—(No. 587, dated 14th March 1883, Punjab Gazette of 15th idem).

3. The Magistrate or Chief Commissioner of Police to whom the application for a license of a stage carriage is made may refuse to license the same, if he shall be of

Refusal of license.

opinion that such stage carriage is unserviceable or is unsafe or unfit for public accommodation or use. If a Magistrate or Chief Commissioner of Police as aforesaid shall grant a license, the

Particulars of license.

license shall set forth the number thereof, the name and residence of the proprietor of the stage carriage, the place at which his head office is held, the largest number of passengers and the greatest weight of luggage to be carried in or on such carriage, the number of horses by which such carriage is to be drawn, and the name of the place at which such carriage is licensed.

4. For every such license there shall be paid by the proprietor of the stage carriage the sum of five rupees, and such license shall be in force for one year from the date thereof. When a licensed stage carriage is transferred to a new proprietor within the year, the name of such new proprietor

Charge for and duration of license.

shall, on application to that effect, be substituted in the license for the name of the former proprietor without any further payment for that year, and every person who appears by the license to be the proprietor, shall be deemed to be such proprietor for all the purposes of this Act.

5. On any stage carriage being licensed, the proprietor thereof shall cause the number of the license and all the other particulars of the license to be distinctly painted in the English language and character upon a conspicuous part of such stage carriage.

6. The proprietor of any licensed stage carriage who shall let such stage carriage for hire without the particulars specified in Section 3 being painted on such carriage in the manner directed in the last preceding section, shall be liable to a fine not exceeding one hundred rupees.

7. Whoever lets for hire any stage carriage without the same being licensed as provided by this Act, shall be liable, on a first conviction, to a fine not exceeding one hundred rupees, and on any subsequent conviction to a fine which may extend to five hundred rupees.

8. Any proprietor, or agent of a proprietor, or any driver of a licensed stage carriage, who knowingly permits such carriage to be drawn by a less number of horses, or who knowingly permits a larger number of passengers or a greater weight of luggage to be carried by such stage carriage than shall be provided by the license, shall be liable on a first conviction to a fine not exceeding one hundred rupees, and on any subsequent conviction to a fine which may extend to five hundred rupees. In every case where such stage carriage shall be proved to have been drawn by a less number of horses, or to have carried a larger number of passengers or a greater weight of luggage than shall be provided by the license, the proprietor of such carriage shall be held to have knowingly permitted such offence, unless he shall prove that the offence was not committed with his connivance, and that he had taken every reasonable precaution and had made reasonable provision to prevent the commission of the offence.

9. Any person who shall cruelly beat, ill-treat, over-drive, abuse, torture, or cause or procure to be cruelly beaten, ill-treated, over-driven, abused or tortured, any horse employed in drawing or harnessed to any stage carriage, or who shall harness to or drive in any stage carriage any horse which from sickness, age, wounds, or other cause is unfit to be driven in such stage carriage, shall for every such offence be liable to a fine not exceeding one hundred rupees.

10. Any Magistrate or Chief Commissioner of Police within the local limits of whose jurisdiction any stage carriage shall ply, or who has granted the license of any stage carriage, may cancel the license of such stage carriage if it shall appear to him that such stage carriage or any horse or any harness used with such carriage is unserviceable or unsafe or otherwise unfit for public accommodation or use.

11. In any station or place in which a Magistrate shall reside and be, any police officer may, in any place within two miles of the office of such Magistrate, seize any stage carriage with the horse harnessed thereto, if the full particulars of the license of such stage carriage be not distinctly painted on such stage carriage in the manner provided in Section 5 of this Act. Such carriage with the horse harnessed thereto shall be taken without delay by such police officer before such Magistrate, who shall forthwith proceed to hear and determine the complaint of such police officer; and if thereupon any fine is imposed by such Magistrate and such fine is paid, such stage carriage and horse shall be immediately released; and if such fine be not paid, such stage carriage and horse may be detained for twenty days as security for the payment thereof; and if the fine be not sooner paid, they may be sold and the proceeds applied (so far as they extend) to the payment of the said fine, and all costs and charges incurred on account of the detention and sale; and the surplus (if any), when claimed, shall be paid to the proprietor of such carriage and horse; and if such surplus be not claimed within a further period of two months from such sale, the same shall be forfeited to the State. If the proceeds of such sale do not fully pay the fine and costs and charges aforesaid, the balance may be recovered as is hereinafter provided.

12. If any driver of any stage carriage, or any other person having the care thereof, shall through intoxication, neglect, or by wanton or furious driving, or by any other misconduct, endanger the safety of any passenger or other person, or shall injure or endanger the property of the proprietor of such stage carriage, or of any other person, every such person so offending shall be liable to a fine not exceeding one hundred rupees.

13. Whenever the driver of any stage carriage or the owner of any horse employed in drawing any stage carriage shall have committed any offence against this Act for the commission whereof any penalty is by this Act imposed, other than an offence specified in Section 8, and such driver or owner shall not be known, or being known cannot be found, or if the penalty cannot be recovered from such driver or owner, the proprietor of such carriage shall be liable to every such penalty as if he had been the driver of such carriage or owner of such horse at the time when such offence was committed. Provided that if any such proprietor shall make out, to the satisfaction of the Magistrate before whom any complaint or information shall be heard, by sufficient evidence, that the offence was committed by such driver or owner without the privity or knowledge of such proprietor; and that no profit, advantage, or benefit, either directly or indirectly, has accrued or can accrue to such proprietor therefrom; and that he has used his endeavour to find out such driver or owner, and has done all that was in his power to recover the amount of the penalty from him, the Magistrate may discharge the proprietor from such penalty, and shall levy the same upon such driver or owner when found.

14. Whenever any charge is made before any Magistrate of any offence under this Act on which it is necessary to issue a summons, the Magistrate shall issue such summons directed to such proprietor or his nearest agent, and may transmit such summons by letter

post, which shall be deemed to be good service thereof. The letter shall be registered at the post office, and the cost of the registration shall be borne by the Government in the first instance, but may be charged as costs in the case. The summons shall allow a reasonable time, in reference to the distance to which the summons is sent, for the appearance of such proprietor or his agent as aforesaid.

15. All penalties incurred under this Act shall be adjudged by a Magistrate or Chief Commissioner of Police as aforesaid, and all orders made under this Act by such Magistrate or Chief Commissioner of Police shall be final.

16. All penalties imposed under this Act, or any balance of any fine, costs or charges as mentioned in Section 11 of this Act, may in case of non-payment or non-recovery thereof be levied by distress and sale of the moveable property of the offender by warrant under the hand of the Magistrate who imposed the same.

17. In case any such penalties shall not be forthwith paid, such Magistrate may order the offender to be apprehended and detained in safe custody until the return can be conveniently made to such warrant of distress, unless the offender shall give security to the satisfaction of such Magistrate for his appearance at such place and time as shall be appointed for the return of the warrant of distress.

18. If upon the return of such warrant it shall appear that no sufficient distress can be had whereon to levy such penalty, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such Magistrate by the confession of the offender or otherwise, that he has not sufficient goods and chattels whereupon such penalty could be levied if warrant of distress were issued, such Magistrate may, by warrant under his hand, commit the offender, provided he is not a European British subject, to prison, there to be imprisoned, according to the discretion of such officer, for any term not exceeding two calendar months when the amount of penalty shall not exceed fifty rupees, and for any term not exceeding four calendar months when the amount shall not exceed one hundred rupees, and for any term not exceeding six calendar months in any other case, the commitment to be determinable in each of the cases aforesaid on payment of the amount.

19. If the offender shall be a European British subject, the Magistrate shall record the facts and transmit such record to the District Court of the district wherein the offender is convicted, and the amount of penalty and the costs (if any) shall be levied in the manner provided for the execution of decrees of the civil Court.

20. On complaint made before any Magistrate of any offence committed under this Act, it shall not be necessary to prove that the offence was committed within the local limits of such Magistrate or other officer.

Interpretation.
"Magistrate."

21. The term "Magistrate" in this Act shall include all Magistrates and other persons exercising the powers of a Magistrate.

The term "British India" in this Act shall denote the territories that are or shall be vested in Her Majesty by the Statute "British India." 21 and 22 Vic., c. 106, entitled "*An Act for the better Government of India.*"

NOTE.—See Section 2 of Act XVI of 1876.

All expressions and provisions which in this Act are applied to horses shall also apply to all other animals employed in drawing any carriage ordinarily used for the purpose of conveying passengers for hire to or from any place in British India.

Horse.

NOTE.—As amended by Act XVI of 1876.

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number.

Number.

Words importing the masculine gender shall include the feminine.

Gender.

22. Repealed by Act XIV of 1870.

NOTE.—The following Circular No. 9, dated 7th July 1868, was issued by the Secretary to Government, Punjab, to all Commissioners in the Punjab :—

"I have the honor to forward herewith a set of rules for the guidance of Magistrates in enforcing the provisions of Act XVI of 1861 (the Stage Carriage Act).

"2. I am to request that all proprietors of dāk carriages in your division, or their agents, be duly informed of these rules, and that a copy of the rules be endorsed on every license granted by Magistrates.

"3. Two months grace should be allowed from the date of the proprietors receiving the present notice, before conditions 1, 3, 4, 5 and 6—so far as they go beyond existing rules—are enforced; but after the expiration of the above period full effect should be given to them. The proprietors of dāk carriages should be informed accordingly.

"4. In future the monthly return showing the state of dāk horses, &c., prescribed in this Office Circular No. 3—318, dated 6th March 1865, should be submitted in the annexed form.

NOTICE.

"1. A carriage licensed for one horse shall be licensed to carry no more than one passenger and 80 lbs. of luggage. A carriage licensed for two horses shall be licensed to carry no more than 3 passengers and 240 lbs. of luggage, or 4 passengers and 120 lbs. of luggage.

"2. A license is liable to be cancelled if it should appear to the Magistrate that the carriage, or any horse or harness used therewith, is unsafe or unserviceable, or otherwise unfit for public use.

"3. No stage carriage of which the doors or shutters are insecure, or of which the lining or cushions are in a torn or filthy condition, or which is without splash-board and guards over the wheels, will be considered serviceable and fit for public accommodation, and the employment of any such carriage will entail cancelment of its license.

"4. No horse with galled shoulders, or other open wound, or that goes lame, or that is weak, broken-winded, or otherwise in bad condition, or that is less than 13 hands high, or that in the preceding 24 hours has been driven more than two stages of six miles, will be considered serviceable and fit for public use; and the employment of any such horse will expose the licensee of the carriage in which it shall be employed to cancelment of its license.

"5. Every horse employed in a licensed carriage must be fitted with a properly fitting chest-band or collar; any horse not so fitted will be considered to be used with unserviceable and unfit harness, and the proprietor of any stage carriage in which such horse is employed will be liable to cancelment of its license.

"6. Any proprietor, agent, or driver of a carriage, who knowingly permits it to be drawn by a less number of horses than that specified in the license, or who knowingly permits more passengers or luggage to be carried in such carriage than is provided in his license, is liable to a fine for the first offence of 100 rupees, and subsequently of 500 rupees. And the proprietor of any carriage, with which such offence is committed, is held to have knowingly permitted such offence, unless he can be shown to have taken every reasonable precaution, and to have made reasonable provision to prevent its commission.

"7. Any person who cruelly beats, ill-treats, over-drives, or abuses, or causes or procures to be cruelly beaten, ill-treated, over-driven, or abused, any horse in a stage carriage, is liable to a fine of one hundred rupees. Drivers, proprietors, or agents, who drive or cause to be driven in a licensed carriage any horse for more than two stages of 6 miles, will be considered to have cruelly ill-treated, over-driven, and abused such horse within the meaning of the above provision."

DISTRICT.

Statement showing the state of dāk horses and the measures taken for enforcing Act XVI of 1861 in this district, during the month of 18

1	2	3	4	5	6
Number of horses at each chauki of the several dāk companies plying in the district.	Their condition.	Number of times inspected during the month, and by whom.	Number of cases in which criminal proceedings have been taken, the sections under which they have been taken, the result, and name or description of parties punished.	Number of cases in which licenses have been cancelled, the grounds on which they have been cancelled, and the name or description of the licensees whose licenses have been so cancelled.	REMARKS.

ACT No. III of 1862.

(Passed on the 28th February 1862).

An Act to amend the law relating to the use of a Government Seal.

Whereas it is expedient to adapt the law relating to the use of a Government seal to the present form of the Government in India; It is enacted as follows:—

Preamble.

Whenever it is required by any Regulation of a Local Government or by any Act of the Governor-General of India in Council, that the seal of the East India Company shall be affixed on behalf or by the authority of the Government to any instrument or document, it shall be lawful, if the seal is to be affixed on behalf or by the authority of a Local Government, to affix in lieu of the seal of the East India Company a seal bearing the designation of such Local Government, or if the seal is to be affixed on behalf or by the authority of the Government of India, a seal bearing the inscription "Government of India;" and such instrument or document so sealed shall to all intents and purposes be as valid and effectual as if the seal so used had been that of the East India Company.

NOTE.—This Act is declared to be in force throughout the whole of British India, except the Scheduled Districts, by Act XV of 1874. It has also been declared to be in force in certain of the Scheduled Districts of the Punjab, but not in Lahul (vide Notes (a) and (b) to Act XIV of 1874).

ACT No. XVI of 1863.

(Passed on the 10th March 1863).

An Act to make special provision for the levy of the Excise Duty payable on Spirits used exclusively in Arts and Manufactures or in Chemistry.

Whereas it is expedient to make special provision for the levy of the excise duty payable on spirits used exclusively in arts and manufactures or in chemistry ; It is enacted as follows:—

Preamble.

1. Spirits intended to be used exclusively in arts and manufactures or in chemistry may be removed from any licensed distillery in any part of British India on payment of duty not exceeding five per cent. on the value of the spirits ; provided that no spirits shall be so removed until they have been effectually and permanently rendered unfit for human consumption.

NOTE.—This section has been amended by Act XI of 1882.

2. The Board of Revenue, or other authority specially authorized in that behalf by the Local Government, shall prescribe from time to time, subject to the approval of the Local Government, rules for ascertaining and determining that spirits proposed to be removed for the purpose aforesaid have been effectually and permanently rendered unfit for human consumption, as required by Section 1 of this Act ; for causing such spirits to be so rendered, if necessary, by its own officers, at the expense of the person who wishes to remove them ; and for fixing the value of the spirits on which the *ad valorem* duty shall be levied.

NOTE.—For rules framed under this section, see Financial Commissioner's Book Circular No. VI of 1874, and Circular No. 8 of 1884.

3. Every person who shall wilfully contravene any rules prescribed by the Board of Revenue, or other authority as aforesaid, under the last preceding section of this Act, shall be liable on conviction before any officer exercising the powers of a Magistrate to a penalty not exceeding five hundred rupees for every such offence.

4. Every person who shall attempt, or shall connive at an attempt, to render fit for human consumption, spirits removed from a distillery under the provisions of this Act, shall be liable to a penalty not exceeding one thousand rupees ; and the possessor of such spirits on which such attempt has been made, or which may have been rendered fit for human consumption, shall be liable on conviction before any officer exercising the powers of a Magistrate to a penalty not exceeding five hundred rupees.

5. Any penalty imposed under either of the last two preceding sections may in case of non-payment be levied by distress and sale of the goods and chattels of the offender, by warrant under the hand of the officer by whom such penalty was imposed.

6. In case any such penalty shall not be forthwith paid, any such

In case of non-payment of penalty, offender may be detained pending return to distress warrant.

officer may order the offender to be apprehended and detained in safe custody, until the return can be conveniently made to such warrant of distress, unless the offender shall give security to the satisfaction of such officer for his appearance at such place and time as shall be appointed for the return of the warrant of distress.

7. If upon the return of such warrant it shall appear that no sufficient

Imprisonment of offender in case of failure to recover penalty by distress.

distress can be had whereon to levy such penalty, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such officer by the confession of the offender or otherwise that he has not sufficient goods and chattels whereupon such penalty could be levied if a warrant of distress were issued, any such officer may by warrant under his hand commit the offender to the civil jail, there to be imprisoned, according to the discretion of such officer, for any term not exceeding two calendar months when the amount of penalty shall not exceed fifty rupees, and for any term not exceeding four calendar months when the amount shall not exceed one hundred rupees, and for any term not exceeding six calendar months in any other case, the commitment to be determinable in each of the cases aforesaid on payment of the amount.

8. The prohibition contained in Section 11 of Act III of 1852 (to

Provisions of Section 11, Act III of 1852, relating to adulteration, not to apply to spirits rendered unfit for consumption under this Act.

amend the law relating to spirituous and intoxicating liquors, drugs, and preparations within the territories subordinate to the Presidency of Bombay) against mixing any noxious drug or material in, or by other process adulterating, spirits manufactured under the provisions of Regulation XXI of 1827 of the Bombay Code, or of the said Act III of 1852, shall not apply to spirits rendered unfit for human consumption under this Act.

9. In every case of conviction under Section 3 or Section 4 of this Act,

Confiscation in cases of conviction under Section 3 or 4.

the liquor or spirits with the cask or vessel containing the same, and the cart, boat, and animal or animals employed in carrying such liquor or spirit, shall be liable to confiscation.

NOTE.—This Act is declared to be in force throughout the whole of British India, except the Scheduled Districts, by Act XV of 1874. It has also been declared to be in force in certain of the Scheduled Districts of the Punjab, but not in Lahul (*vide* Notes (a) and (b) to Act XIV of 1874). Its provisions are not affected by Act XXII of 1881.

ACT No. XX of 1863.

(Passed on the 10th March 1863).

An Act to enable the Government to divest itself of the management of Religious Endowments.

Whereas it is expedient to relieve the Boards of Revenue, and the Local Agents, in the Presidency of Fort William in Bengal, and the Presidency of Fort Saint George, from the duties imposed on them by Regulation XIX, 1810 of the Bengal Code (for

Preamble.

the due appropriation of the rents and produce of lands granted for the support of Mosques, Hindu Temples, Colleges and other purposes; for the maintenance and repair of Bridges, Sarais, Kattras, and other public buildings; and for the custody and disposal of Nazul Property or Escheats), and Regulation VII, 1817 of the Madras Code (for the due appropriation of the rents and produce of lands granted for the support of Mosques, Hindu Temples and Colleges or other public purposes; for the maintenance and repair of Bridges, Choultries, or Chuttrums, and other public buildings; and for the custody and disposal of Escheats), so far as these duties embrace the superintendence of lands granted for the support of mosques or Hindu temples, and for other religious uses; the appropriation of endowments made for the maintenance of such religious establishments; the repair and preservation of buildings connected therewith, and the appointment of trustees or managers thereof; or involve any connexion with the management of such religious establishments. It is enacted as follows;—

NOTE.—The concluding portion of the preamble has been repealed by Act XVI of 1874.

1. *Repealed by Act XIV of 1870.*

2. In this Act words importing the singular number shall include the plural, and words importing the plural number shall include the singular.

Number.

Gender.

Words importing the masculine gender shall include females.

The words "Civil Court" and "Court" shall mean the principal Court "Civil Court," and of original civil jurisdiction in the district in which "Court." the mosque, temple, or religious establishment is situate, relating to which, or to the endowment whereof, any suit shall be instituted or application made under the provisions of this Act.

3. In the case of every mosque, temple or other religious establishment to which the provisions of either of the Regulations specified in Section 1 are applicable, and the nomination of the trustee, manager, or superintendent whereof, at the time of the passing of this Act, is vested in, or may be exercised by, the Government or any public officer; or in which the nomination of such trustee, manager, or superintendent shall be subject to the confirmation of the Government or any public officer, the Local Government shall, as soon as possible after the passing of this Act, make special provision as hereinafter provided.

Local Government to make special provision respecting mosques, &c., in certain cases.

4. In the case of every such mosque, temple, or other religious establishment which, at the time of the passing of this Act, shall be under the management of any trustee, manager, or superintendent, whose nomination shall not vest in, nor be exercised by, nor be subject to the confirmation of, the Government or any public officer, the Local Government shall, as soon as possible after the passing of this Act, transfer to such trustee, manager, or superintendent, all the landed or other property which, at the time of the passing of this Act, shall be under the superintendence or in the possession of the Board of Revenue or any local agent, and belonging to such mosque, temple, or other religious establishment, except such property as is hereinafter provided; and the power and responsibilities of the Board of Revenue and the local agents, in respect to such mosque, temple, or other religious establish-

Transfer to independent trustees, &c., of all property belonging to their trusts, &c., remaining in charge of Revenue Board or others.

ment, and to all land and other property so transferred, except as regards acts done and liabilities incurred by the said Board of Revenue or any local agent, previous to such transfer, shall cease and determine.

5. Whenever from any cause a vacancy shall occur in the office of any trustee, manager, or superintendent, to whom any property shall have been transferred under the last preceding section, and any dispute shall arise respecting the right of succession to such office, it shall be lawful for any person interested in the mosque, temple, or religious establishment, to which such property shall belong, or in the performance of the worship or of the service thereof, or the trusts relating thereto, to apply to the civil Court to appoint a manager of such mosque, temple, or other religious establishment, and thereupon such Court may appoint such manager, to act until some other person shall by suit have established his right of succession to such office. The manager so appointed by the civil Court shall have, and shall exercise, all the powers which, under this or any other Act, the former trustee, manager, or superintendent, in whose place such manager is appointed by the Court, had or could exercise, in relation to such mosque, temple, or religious establishment, or the property belonging thereto.

6. The rights, powers, and responsibilities of every trustee, manager, or superintendent to whom the land and other property of any mosque, temple, or other religious establishment is transferred in the manner prescribed in Section 4 of this Act, as well as the conditions of their appointment, election, and removal, shall be the same as if this Act had not been passed, except in respect of the liability to be sued under this Act, and except in respect of the authority of the Board of Revenue and local agents, given by the Regulations hereby repealed, over such mosque, temple, or religious establishment, and over such trustee, manager, or superintendent, which authority is hereby determined and repealed. All the powers which might be exercised by any Board or local agent, for the recovery of the rent of land or other property transferred under the said Section 4 of this Act may, from the date of such transfer, be exercised by any trustee, manager, or superintendent to whom such transfer is made.

7. In all cases described in Section 3 of this Act, the Local Government shall once for all appoint one or more committees in every division or district, to take the place, and to exercise the powers, of the Board of Revenue and the local agents under the Regulations hereby repealed. Such committee shall consist of three or more persons, and shall perform all the duties imposed on such Board and local agents, except in respect of any property which is specially provided for under Section 21 of this Act.

NOTES.—(a). The Lieutenant-Governor has confirmed the appointment of the native gentlemen marginally noted under this section to be a committee for the purposes therein described, in respect of the Samadh of Maha Singh in the Gujranwala district, with effect from 24th November 1863.—(*Notification No. 1095, dated 11th September 1869*).

Sardar Jawahar Singh.
Sardar Fattah Singh, Man.
Sardar Fattah Gurjakh.
Bhai Bhagat Singh.
Arora, Lambardar & Zaildar.

(b). The Lieutenant-Governor has appointed the native gentlemen marginally noted, under this section to be a committee for the purposes therein described in respect of the Samadh of Maharajah Sher Singh at Lahore.—(*Notification No. 3371, dated 11th November 1869*).

Sardar Lal Singh, Kalianwala.
Bhai Charanjit Singh.
Rai Mul Singh.

8. The members of the said committee shall be appointed from among persons professing the religion for the purposes of which the mosque, temple, or other religious establishment was founded or is now maintained, and in accordance, so far as can be ascertained, with the general wishes of those who are interested in the maintenance of such mosque, temple, or other religious establishment. The appointment of the committee shall be notified in the official Gazette. In order to ascertain the general wishes of such persons in respect of such appointment, the Local Government may cause an election to be held, under such rules (not inconsistent with the provisions of this Act) as shall be framed by such Local Government.

NOTE.—“Consequent on the death of Bhai Sampuran Singh of Bagriau, in the Ludhiana district, and the minority of his heir, a committee, consisting of the following members, viz: Amir Singh, Chandu Lal and Harsukh Rai, is appointed, under Section 8 of Act XX of 1863, for the superintendence and management of the Langarkhana maintained by the Bhai at the above-named place.”—(Notification No. 123, dated 22nd February 1864—*Punjab Gazette Extraordinary of 22nd idem*).

9. Every member of a committee appointed as above shall hold his office for life, unless removed for misconduct or for unfitness, and no such member shall be removed except by an order of the civil Court as hereinafter provided.

10. Whenever any vacancy shall occur among the members of a committee appointed as above, a new member shall be elected to fill the vacancy, by the persons interested as above provided. The remaining members of the committee shall, as soon as possible, give public notice of such vacancy, and shall fix a day, which shall not be later than three months from the date of such vacancy, for an election of a new member by the persons interested as above provided, under rules for elections which shall be framed by the Local Government, and whoever shall be then elected, under the said rules, shall be a member of the committee to fill such vacancy. If any vacancy as aforesaid shall not be filled up by such election as aforesaid within three months after it has occurred, the civil Court, on the application of any person whatever, may appoint a person to fill the vacancy, or may order that the vacancy be forthwith filled up by the remaining members of the committee, with which order it shall then be the duty of such remaining members to comply, and if this order be not complied with, the civil Court may appoint a member to fill the said vacancy.

11. No member of a committee appointed under this Act shall be capable of being, or shall act, also as a trustee, manager, or superintendent of the mosque, temple, or other religious establishment for the management of which such committee shall have been appointed.

12. Immediately on the appointment of a committee as above provided, for the superintendence of any such mosque, temple, or religious establishment, and for the management of its affairs, the Board of Revenue, or the local agents acting under the authority of the said Board, shall transfer to such committee all landed or other property which at the time of appointment shall be under the superintendence, or in the possession, of the said Board or local agents, and belonging to the said religious establishment, except as is hereinafter provided for, and thereupon the powers and respon-

sibilities of the Board and the local agents, in respect to such mosque, temple, or religious establishment, and to all land and other property so transferred, except as above, and except as regards acts done and liabilities incurred by the said Board or agents previous to such transfer, shall cease and determine. All the powers which might be exercised by any Board or local agent, for the recovery of the rent of land or other property transferred under this section, may from the date of such transfer be exercised by such committee to whom such transfer is made.

13. It shall be the duty of every trustee, manager, and superintendent of a mosque, temple, or religious establishment to which the provisions of this Act shall apply, to keep regular accounts of his receipts and disbursements, in respect of the endowments and expenses of such mosque, temple, or other religious establishment; and it shall be the duty of every committee of management, appointed or acting under the authority of this Act, to require from every trustee, manager, and superintendent of such mosque, temple, or other religious establishment, the production of such regular accounts of such receipts and disbursements at least once in every year, and every such committee of management shall themselves keep such accounts thereof.

14. Any person or persons interested in any mosque, temple, or religious establishment, or in the performance of the worship or of the service thereof, or the trusts relating thereto, may, without joining as plaintiff any of the other persons interested therein, sue before the civil Court the trustee, manager, or superintendent of such mosque, temple, or religious establishment, or the member of any committee appointed under this Act, for any misfeasance, breach of trust, or neglect of duty, committed by such trustee, manager, superintendent, or member of such committee, in respect of the trusts vested in, or confided to them respectively, and the civil Court may direct the specific performance of any act by such trustee, manager, superintendent, or member of a committee, and may decree damages and costs against such trustee, manager, superintendent, or member of a committee, and may also direct the removal of such trustee, manager, superintendent or member of a committee.

15. The interest required in order to entitle a person to sue under the last preceding section need not be a pecuniary, or a direct or immediate interest, or such an interest as would entitle the person suing to take any part in the management or superintendent of the trusts. Any person having a right of attendance, or having been in the habit of attending at the performance of the worship or service of any mosque, temple, or religious establishment, or of partaking in the benefit of any distribution of alms, shall be deemed to be a person interested within the meaning of the last preceding section.

16. In any suit or proceeding instituted under this Act, it shall be lawful for the Court before which such suit or proceeding is pending, to order any matter in difference in such suit to be referred for decision to one or more arbitrators. Whenever any such order shall be made, the provisions of Chapter VI of the Code of Civil Procedure shall in all respects apply to such order and arbitration, in the same manner as if such order had been made on the application of the parties under Section 312 of the said Code.

17. Nothing in the last preceding section shall prevent the parties from applying to the Court, or the Court from making the order of reference, under the said Section 312 of the said Code of Civil Procedure.

Reference under Section 312 of Civil Procedure Code.

18. No suit shall be entertained under this Act, without a preliminary application being first made to the Court for leave to institute such suit. The Court on the perusal of the application, shall determine whether there are sufficient *prima facie* grounds for the institution of a suit, and if in the judgment of the Court there are such grounds, leave shall be given for its institution. If the Court shall be of opinion that the suit has been for the benefit of the trust, and that no party to the suit is in fault, the Court may order the costs, or such portion as it may consider just, to be paid out of the estate.

Preliminary application for leave to institute suit.

NOTE.—The portions of this section repealed by Act VII of 1870 have been omitted.

19. Before giving leave for institution of a suit, or after leave has been given, before any proceeding is taken, or at any time when the suit is pending, the Court may order the trustee, manager, or superintendent, or any member of a committee, as the case may be, to file in Court the accounts of the trust, or such part thereof as to the Court may seem necessary.

Court may require accounts of trust to be filed.

20. No suit or proceeding before any civil Court under the preceding sections, shall in any way effect or interfere with any proceeding in a criminal Court for criminal breach of trust.

No civil suit to bar proceeding for criminal breach of trust.

21. In any case in which any land or other property has been granted for the support of an establishment partly of a religious and partly of a secular character, or in which the endowment made for the support of an establishment is appropriated partly to religious and partly to secular uses, the Board of Revenue, before transferring to any trustee, manager, or superintendent, or to any committee of management appointed under this Act, shall determine what portion, if any, of the said land or other property shall remain under the superintendence of the said Board for application to secular uses, and what portion shall be transferred to the superintendence of the trustee, manager, or superintendent, or of the committee, and also what annual amount, if any, shall be charged on the land or other property which may be so transferred to the superintendence of the said trustee, manager, or superintendent, or of the committee, and made payable to the said Board or to the local agents, for secular uses as aforesaid. In every such case the provisions of this Act shall take effect only in respect to such land and other property as may be so transferred.

Provision for cases in which the endowments are partly for religious and partly for secular purposes.

22. Except as provided in this Act, it shall not be lawful for any Government in India, or for any officer of any Government in his official character, to undertake or resume the superintendence of any land or other property granted for the support of, or otherwise belonging to, any mosque, temple, or other religious establishment, or to take any part in the management or appropriation of any endowment made for the maintenance of any such mosque, temple, or other establishment, or to nominate or appoint any trustee, manager, or superintendent thereof, or to be in any way concerned therewith.

Government not to hold charge henceforth of property for support of any mosque, temple, &c.

23. Nothing in this Act shall be held to affect the provisions of the Regulations mentioned in this Act, except in so far as they relate to mosques, Hindu temples, and other religious establishments; or to prevent the Government from taking such steps as it may deem necessary, under the provisions of the said Regulations, to prevent injury to and preserve buildings remarkable for their antiquity, or for their historical or architectural value, or required for the convenience of the public.

24. The word "India" in this Act shall denote the territories which are or may become vested in Her Majesty by the Statute 21 and 22 Vic. c. 106, entitled "*An Act for the better Government of India.*"

NOTE.—In exercise of the powers conferred by Section 3 of the Scheduled Districts Act, 1874, the Lieutenant-Governor of the Punjab is pleased, with the previous sanction of the Governor-General in Council, to declare Act XX of 1863 (to enable the Government to divest itself of the management of Religious Endowments) to be in force in the following Scheduled Districts of the Punjab, namely, —

Hazara, Peshawar, Kohat, Bannu, Dera Ismail Khan and Dera Ghazi Khan.

(No. 866, dated 18th May 1886, *Punjab Gazette* of 20th idem, page 192, and *Gazette of India* of 5th June 1886).

ACT No. XXIII of 1863.

(Passed on the 10th March 1863).

An Act to provide for the adjudication of claims to waste lands.

Whereas it is expedient to make special provision for the speedy adjudication of claims which may be preferred to waste lands proposed to be sold, or otherwise dealt with, on account of Government, and of objections taken to the sale or other disposition of such lands; It is enacted as follows:—

1. When any claim shall be preferred to any waste land proposed to be sold, or otherwise dealt with, on account of Government, or when any objection shall be taken to the sale or other disposition of such land, the Collector of the district in which such land is situate, or other officer performing the duties of a Collector of land revenue in such district by whatever name his office is designated, shall, if the claim or objection be preferred within the period mentioned in the advertisement to be issued for the sale or other disposition of such land, which period shall not be less than three months, proceed to make an enquiry into the claim or objection.

2. The Collector or other officer as aforesaid shall call upon the claimant or objector to produce any evidence, or documents, upon which he may rely in proof of his claim or objection; and after considering the same, and making any further enquiry that may appear proper, shall dispose of the case by an order for the admission or rejection of the claim or objection; and if the land is proposed to be sold, for the sale of the same, subject to any condition or reservation which to such Collector or other officer as aforesaid shall appear to be proper. If the land is ordered to be sold subject to any condition or reservation, such condition or reservation shall be notified to intending purchasers at the time of sale.

3. Pending an enquiry into any claim or objection under the last preceding section, the Collector or other officer as aforesaid shall postpone the sale or other disposition of the land ; and if he shall order that such claim or

Pending enquiry, sale, &c., to be postponed.

objection be rejected, he shall further postpone the sale or other disposition of the land to allow the claimant or objector to contest the order of rejection in the manner hereinafter provided.

4. If the Collector or other officer as aforesaid shall consider the claim

Sale to be stopped if claim appear to be established, but may afterwards be proceeded with.

or objection to be established, and that the sale or other disposition of the land should not take place, he shall stop the sale or other disposition of the land ; but such sale or other disposition of the land may afterwards be proceeded with, if, on an order issued by the Local Government to try the claim or objection, as provided in Section 6 of this Act, the claimant or objector shall fail to establish the same.

5. If the Collector or other officer aforesaid shall order that the claim

Procedure after passing of order in the case.

or objection be rejected, or that the land be sold subject to any condition or reservation, or that it be otherwise dealt with, he shall cause a copy of such order to be delivered to the claimant or objector ; and if such claimant or objector shall not, within one week from the delivery of such copy, or within such further time as the Collector or other officer as aforesaid, for any special reason to be recorded, shall see fit to grant, give notice in writing to such Collector or other officer as aforesaid, that he intends to contest such order, the order shall be final. If the claimant or objector shall, within the time allowed, give such notice, the Collector or other officer as aforesaid shall immediately make a report to the Board of Revenue, or other superior

Report to Revenue Board.

revenue authority ; and shall forward with such report a copy of his order, stating fully all the circumstances of the case, and the evidence adduced in support, or otherwise, of the claim or objection ; and such Board or other authority on the receipt of such report, and after calling for any further information which it may consider necessary, may confirm, modify, or reverse the order of the Collector or other officer as aforesaid. If the Board or other authority as aforesaid confirm the order of the Collector or other officer as aforesaid, or modify such order in such manner as to leave any part of such order in force adverse to the claimant or objector, the Collector or other officer as aforesaid shall certify such order to the Court constituted as hereinafter provided ; and such Court shall forthwith give notice to the claimant or objector ; and if such claimant or objector shall not, within thirty days from the delivery

Decision of Board.

of such notice from the Court, institute a suit in such Court to establish his claim or objection, the order of the Board or other authority aforesaid shall be final.

NOTE.—So much of this section as relates to the limitation of suits is repealed by Act IX of 1871.

6. The Local Government may, within twelve months after the date

Local Government may, within twelve months, order suit to be brought to try claim admitted by Collector.

on which the claim of any claimant of waste land, or the objection of any objector, as aforesaid, shall have been admitted under this Act by the Collector or other officer as aforesaid, direct a suit to be brought to try the claim or objection of the claimant or objector, in a Court constituted as hereinafter provided.

7. For the investigation and trial of claims under this Act, the Local Government shall constitute, in every district in which there may be any waste lands capable of being sold or otherwise dealt with on account of Government, a Court consisting of an uneven number of persons, not less than three; of whom the Judge of the district, or the officer presiding in the principal civil Court of original jurisdiction in the district, by whatever name his office may be designated, shall be one. Any one or more of the members of which such Court shall consist, shall have power to make all such orders in the case as may be necessary prior to the hearing of the suit. Provided that, whenever the Collector or other officer by whom the original enquiry was held is the officer presiding in the principal civil Court of original jurisdiction in the district, such officer shall not be a member of such Court.

8. Whenever any Court is constituted under this Act, notice thereof shall be given by a written proclamation, copies of which shall be affixed in the several Courts, and in the offices of the several Collectors and Magistrates of the district: and from the date of the issue of such proclamation, no other Court shall be competent to entertain any claim or objection belonging to the class of claims or objections for the trial and determination of which such Court is constituted.

9. The Courts constituted under this Act shall be held at such place, or places, within the limits of their respective jurisdictions, as shall be considered most convenient.

10. In every suit instituted under Section 5 of this Act, the claimant of the waste land, or objector to the sale or other disposition of such land, shall appear as plaintiff; and the Collector or other officer aforesaid shall appear as defendant on the part of Government. Either party may appear by pleader or by agent. Provided that, if such other officer as aforesaid be the presiding officer of the principal civil Court of original jurisdiction in the district, the Local Government shall appoint some other officer to appear as defendant in the case on its behalf. In any suit ordered to be instituted by the Local Government under Section 6 of this Act, the Government, by any officer to be appointed for the purpose, shall appear as plaintiff; and the claimant or objector as aforesaid shall appear as defendant.

11. In suits instituted under this Act, except as hereinafter provided, the proceedings shall be regulated, so far as they can be, by the Code of Civil Procedure.

12. The Court shall fix a day for the appearance of the parties, and for the hearing of the suit, of which due notice shall be given to the parties or their agents; and on the day so fixed, the parties or their agents shall bring their witnesses into Court, together with any documents on which they may intend to rely in support of their respective statements. If either party require the assistance of the Court to procure the attendance of a witness on such day, he shall apply to the Court in sufficient time before the day fixed

for the hearing of the suit; and the Court shall issue a subpoena requiring such witness to attend the Court on that day. It shall be competent to the Court to require the personal attendance of the claimant of the waste land, or objector, as aforesaid, on the day fixed for the hearing, or at any subsequent stage of the suit.

13. On the day fixed for the hearing of the suit, or as soon after as may be practicable, the Court shall proceed to examine the claimant of the waste land, or the objector, or his agent (when his personal attendance is not required), and the witnesses of the parties; and upon such examination, and after inspecting the documents of the parties, and making any further enquiry that may appear necessary, shall proceed to pass such order in the case as it may consider just and proper.

14. No appeal shall lie from any decision or order passed under this Act, nor shall any such decision or order be open to revision.

15. If, on the trial of any suit under this Act, any question of law, or of usage having the force of law, or the construction of a document affecting the merits of the case shall arise, on which the Court shall entertain reasonable doubts, the Court may, either of its own motion, or on the application of any of the parties to the suit, draw up a statement of the case, and submit it, with its own opinion, for the opinion of the High Court of Judicature, or of the highest civil Court of appeal and revision in the territory in which the land is situate. Provided that it shall be the duty of every Court held under this Act to make such reference to such High Court, or Court of appeal, if, in any suit under this Act, any question shall arise involving any principle of general importance, or the rights of a class.

16. The Court may proceed in the case notwithstanding a reference to the High Court or other highest civil Court of appeal as aforesaid; and may pass an order contingent upon the opinion of the High Court or other Court as aforesaid on the point referred; but no final order for the sale or other disposition of the land in question in the suit, or for the admission or rejection of any claim or objection which shall be before the Court in such suit, shall be passed, until the receipt of the order of the said High Court or highest civil Court of appeal.

17. The record of cases disposed of by Courts constituted under this Act, shall be deposited amongst the records of the principal civil Court of original jurisdiction in the district in which the property in dispute is situate.

18. No claim to any land, or to compensation or damages in respect of any land, sold or otherwise dealt with on account of Government as waste land, shall be received after the expiration of three years from the date on which such land shall have been delivered by the Government to the purchaser, or otherwise dealt with. If within three years after any lands have been delivered by the Government to the purchaser, or otherwise dealt with, any claimant or objector shall prefer a claim to the land so delivered, or otherwise dealt with, or an objection to such sale, or to compensation or damages

in respect thereof, in the Court constituted under this Act for the district in which the land is situate; and shall show good and sufficient reason for not having preferred his claim or objection to the Collector or other officer as aforesaid within the period limited under Section 1 of this Act; such Court shall file the claim or objection, making the claimant or objector plaintiff, and the Collector of the district or other officer as aforesaid (with the like provision as aforesaid if such other officer be the presiding officer of the principal civil Court of original jurisdiction in the district) the defendant in the suit; and the foregoing provisions of this Act shall be applicable to the trial and determination of the suit. The report of the officer employed to give delivery, or to take possession, on the part of Government, of the land sold or otherwise dealt with, shall be conclusive evidence as to the date on which such delivery was made, or possession was taken.

19. In any case in which the land has been sold, if the Court shall be of opinion that the claim of the claimant is established, the Court shall not award the claimant possession of the land in dispute; but shall order him to receive from the Government treasury, by way of compensation, a sum equal to the price at which the land was sold, in addition to the costs of suit.

20. If the land shall have been sold subject to any condition or reservation, or shall not have been sold, but shall have been otherwise dealt with on account of the Government, and the Court shall be of opinion that the claim to such land, or the objection of an objector, is established, the Court shall award the claimant or objector to receive such sum, in respect of his interest in such land, as shall be awarded in that behalf under the provisions of Act VI of 1857* (*for the acquisition of land for public purposes*); and thereupon the Local Government shall proceed under the said Act, to obtain an award of the value of such interest.

21. An award under any of the provisions of the two last preceding sections, shall be in full satisfaction of the claim of the claimant or objector; and shall bar any future claim on his part, in respect to the land in suit, resting on the same cause of action, or on a cause of action which existed prior to the date of the sale or other disposition of the land on account of Government.

22. Nothing in this Act shall be held to prevent the Local Government from awarding to any claimant of waste land sold on account of Government, on proof to the satisfaction of the Local Government of the claim of such claimant (notwithstanding that he may not have preferred his claim either to the Collector or other officer as aforesaid, or to the proper Court constituted under this Act, within the period prescribed by this Act), such amount as compensation for the said land, within the limit as to amount mentioned in Section 19 of this Act, if the land have been sold not subject to any condition or reservation, as to such Local Government may seem proper.

* See Act X of 1870, S. 2.

13. If the land have been sold subject to any condition or reservation, or have been otherwise disposed of, on account of Government, and any claim to such land, or objection to the sale or other disposition of the land, shall be proved to the satisfaction of the Local Government, although not preferred by the Collector or other officer as aforesaid, or to the Court constituted under this Act, within the period prescribed by this Act, the Local Government may award to such claimant or objector such amount as to such Local Government may appear to be the value of the interest of such claimant or objector in such land.

14. Unless the contrary appears from the context, words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number; and words importing the masculine gender shall include females.

NOTES.—(a) This Act is declared to be in force throughout the whole of British India, except the Scheduled Districts by Act XV of 1874. It has also been declared to be in force in certain of the Scheduled Districts of the Punjab (see Notes (a) and (b) to Act XIV of 1874).

(b).—In supersession of *Punjab Government Gazette* Notification No. 84, dated the 13th of March 1882, the Hon'ble the Lieutenant-Governor, with the previous sanction of the Government of India, is pleased to adopt the following rules for the lease of waste lands in the Punjab:—

Rules for the lease of waste lands in the Punjab.

1. No lease shall be given, except with the special sanction of the Local Government, of an area which exceeds 3,000 acres.

2. All applications for leases shall be made in writing to the Deputy Commissioner of the district.

3. The Deputy Commissioner may reject the application at any stage of the proceedings, if, in his opinion, objections exist to granting a lease of the land. If the Deputy Commissioner reject an application, he shall record his reasons in writing, and an appeal from his order shall lie to the Commissioner.

4. If the Deputy Commissioner entertain the application, he shall require the applicant to deposit the cost of demarcating, surveying, and mapping the land, and shall cause the land to be demarcated, surveyed and mapped. He shall at the same time publish an advertisement, stating that the land has been applied for on lease, and that all claims and objections should be preferred within three months.

5. A copy of the advertisement shall be posted at the District Kutchery, and another at the Tahsil, and another on or near the land applied for on lease.

6. If any claim or objection be preferred within the time specified, the Deputy Commissioner shall proceed in the manner laid down in Sections 1 to 5, inclusive, of Act XXIII of 1863.

7. If the claim or objection is rejected or overruled by the Deputy Commissioner, and notice under Section 5 is filed by the objector within the prescribed period, the Deputy Commissioner shall stay further proceedings, and shall report the case through the Commissioner to the Financial Commissioner for orders.

8. On completion of the proceedings mentioned in the foregoing rules, the Deputy Commissioner shall, unless he has stayed the proceedings under rule 7, or rejects the application, prepare a report (which in the case of small grants up to 100 acres may be in the form annexed) giving full particulars of the land applied for, and the terms on which he proposes that it shall be leased, and shall submit the same for the orders of the authority who, under rule 12, is empowered to sanction the lease. In the case of applications for leases of areas larger than 100 acres in extent, fuller information than that provided for in the form annexed must be submitted, and may be given in the form of a letter. The particulars specified in the form annexed must in all such cases be included.

9. The Deputy Commissioner shall fix the term of the proposed lease with reference to the purpose to which the land is to be applied, the capital required to bring it under cultivation, and other like considerations. But ordinarily he shall so fix the term that the lease may expire with the current settlement of the district.

10. The Deputy Commissioner shall also frame the assessment of the area proposed to be leased with due regard to the revenue rates assessed on land in the neighbourhood, and to the special circumstances of the case, and to this assessment he shall add one fourth as proprietary due or malikana. But he may recommend that the lessee be exempted wholly or partly from payment of land-revenue and malikana for one or more years of the lease.

11. In determining the area proposed to be leased, the Deputy Commissioner shall see that it forms a compact block, so as not to detract from the value of the surrounding land. And in case the area be bounded on one side by a canal, river, or public road, the block must be so formed that the length of the canal, river, or road frontages shall not exceed one-half of the breadth of the block.

12. The Commissioner of the Division may himself sanction, modify, or refuse to sanction any or all of the Deputy Commissioner's proposals in respect of the application, when the area proposed to be leased does not exceed 300 acres. If the area exceeds 300 acres, or in any case if special circumstances exist, he shall submit the case to the Financial Commissioner, who may sanction, modify, or refuse to sanction the proposals. Possession of the land shall not be given to the applicant until the lease has been sanctioned by the proper authority.

13. If the proposals of the Deputy Commissioner are sanctioned, he shall execute and cause to be executed a formal deed of lease.

14. If within six months of the sanction of the lease having been communicated to the applicant he fails to take possession of the land, the Deputy Commissioner may declare the lease cancelled, reporting the fact to the officer by whom the lease was sanctioned, who may confirm, modify, or annul the order of the Deputy Commissioner.

15. A lessee shall be entitled to all agricultural products of the land included in his lease, but not to mineral products, or to trees, whether yielding fuel or timber. Special arrangements shall be made in each case regarding trees. All mines, minerals, coals, gold-washings and quarries in or under the said land, together with the right of entering on the said land and doing all acts and things that may be necessary or expedient for the purpose of searching for, working, getting or carrying away any such mines, minerals, coals, gold-washings and quarries, are absolutely reserved to Government, which shall make reasonable compensation to the lessee for all damage occasioned by the exercise of the rights hereby reserved. In case of any dispute arising between the lessee and Government as to the property and rights hereby reserved, or any matter incidental or in any way relating thereto, or as to any compensation as aforesaid, the decision thereon in each case of the officer empowered by Rule 12 to sanction the lease of the land shall be considered final and binding on both parties.

16. The value of the timber on a grant, in cases where the lessee is permitted to purchase it, shall be estimated according to the demand for fuel in the district, the distance of places where fuel can be sold, distance from railway lines or Government works, and other similar considerations.

17. If the lessee is unwilling to pay for all the standing timber at once, the Deputy Commissioner may arrange that the timber may be cut down and paid for in separate portions as cultivation proceeds, provided that the aggregate sum so obtained shall not be less than would have been obtained by selling the whole of the timber at the outset, and provided also that if the value of the timber rises during the currency of the lease, the lessee shall pay for it at the enhanced rates existing at the time when each portion is sold to him.

18. The right of Government over all rivers and streams, and the right of the public to use existing thoroughfares traversing the grant, shall not be interfered with by the lessee.

19. A lessee is entitled to sink wells, make water-courses, plant trees, build houses, and otherwise improve the lands.

20. At any time during the currency of the lease, the lessee may purchase the proprietary right in the land by payment of a sum which shall represent, unless for special reasons the Financial Commissioner reduce the price, five times the amount of the maximum annual revenue and malikana payable under the terms of the lease. The said sum may be paid either in a lump or by such instalments as the authority who sanctioned the lease may fix.

21. The Government may determine the lease at any time during its currency by giving not less than six months' notice to the lessee, if the land or any portion of it is required for any public purpose. In that case the lessee shall not be entitled to damages or to compensation, save in respect of improvements as provided by the next rule.

Nothing in this rule shall be taken or understood to interfere with or any wise affect the rights of Government under the Land Acquisition Act, X. of 1870.

22. Should the lease be determined under the provisions of Part III., clause 2 or clause 3, or of Part IV., clause 2, of the form of lease appended to these rules, or if on the expiry of the lease the Government decide that it shall not be renewed, as the land or part thereof is required for public purposes, the lessee shall be entitled to receive from Government compensation for any improvements made by him in the said land. The amount of such compensation shall be determined in the manner provided by Part V., clause 3 of the aforesaid form of lease.

23. On the expiry of the lease, the lessee, if he do not purchase under Rule 20, and if no part of the land be required for any public purpose, shall be entitled to a renewal of his lease for such term and on such conditions as to the amount of land-revenue and rent or malikana and other charges to be paid by him as the officer who sanctioned the lease may then determine.

24. A lessee under these rules shall be bound to pay the ordinary extra cesses, that is to say, whether the land leased forms part of a rakh or land known under any other name, demarcated as the exclusive property of Government, or forms part of an ordinary mauza and is not separately demarcated as Government land, he shall pay (1) the local rate, and where the rate does not include them, the road, school and post cesses, (2) the lambardar's, ala lambardar's and zaildar's allowances where necessary; and (3) the patwari's cess at the rates levied in the villages of the parganah.

25. Should any other general cess be imposed on the revenue payers of the parganah, the lessee shall be liable to pay it also, should its imposition seem to the revenue authorities proper with reference to the fact of the Government land being separately demarcated, or forming part of a mauza in which there are other proprietary rights. Balances due on account of extra cesses may be realized in the same way as balances of land-revenue. Those rules do not apply to leases granted before their issue.

26. These rules supersede so much of the provisions of the Circulars of the Financial Commissioner of the Punjab noted below as relate to the same subject:—

No. XII. of 1868.
No. XX. of 1869.
No. XII. of 1871.
No. XV. of 1873.
No. XXI. of 1882.

*Form of Report on an application for a lease of Government waste land under
the Rules of*

1	2	3	4	5	6	7	8	9	10	11
Name, parentage and circumstances of applicant.	District and Tahsil in which land is situated.	Area applied for.	Description and location of the land.	Proposed duration of lease.	Proposed rates of assessment and reservation, if any.	Terms for timber, minerals, &c.	Means of irrigation, existing and proposed.	Present income from the land.	Opinion of Deputy Commissioner.	Opinion or order of Commissioner.

Deputy Commissioner's Office, }
The 188 . }

Deputy Commissioner.

PART I.—General form of lease of waste land in the Punjab.

THIS instrument of lease made the day of 188 between the Secretary of State for India in Council (hereinafter called the Government) and A B, son of C D, caste resident of (hereinafter called the lessee) witnesseth that in consideration of the rent herein reserved and the stipulations herein contained and to be observed by the said A B, his heirs, legal representatives and assigns, the Government doth hereby grant unto the said A B, his heirs, legal representatives and assigns, a lease of all the Government waste lands described in Schedule I. hereunto annexed, upon the following conditions:—

The lease shall be for the term of years.*

* NOTE.—Insert (1) date of commencement of term; (2) if land to be held rent free for any period; (3) rent reserved for each period of the term of lease.

2. The Government does not grant to the lessee, but hereby excepts and reserves to itself out of and in respect of the said lands, all existing rights to and over all mines and minerals, coals, gold-washings and quarries, all trees and fuel-timber; all rivers, streams and water-courses, and all thoroughfares within and traversing the said lands.

PART II.—*Stipulations of the lessee.*

The lessee doth hereby agree—

Payment of rent. 1. That he will pay the yearly rent reserved in two equal half-yearly instalments at on the day of and the day of the first instalment to be paid on the day of next.

2. That he will pay, when due, all taxes, rates and assessments, such as road, school, and dāk cesses, and lambardari, ab lambardari, and zaidari dues, the patwari's cess at the rates levied in the villages of the parganah (Rule 24), and all other taxes, rates and assessments whatsoever imposed by competent authority upon or in respect of the said lands.

3 That he will permit the officers of Government to enter on the said lands for all purposes connected with the construction, maintenance, or repair of new as well as of existing thoroughfares and water-courses :

Right of entry for construction of works, &c. Provided that no compensation, either by reduction of rent, or otherwise, shall become due to the lessee from Government by reason of any such operations.

4. That he will permit the officers of Government, in like manner, to enter and do all acts and things necessary for the full enjoyment of the rights reserved to Government to and over all mines and minerals, coals, gold-washings and quarries, and trees and fuel-timber on the said lands :

Right of entry to enjoy mines, &c. Provided that reasonable compensation shall be made to the lessee by Government for all damage to the said lands, or to any property of the lessee thereupon, occasioned by exercise of the rights herein reserved to Government to or over all mines, minerals, coals, gold-washings, quarries and trees in, under or upon the said lands. The amount of such compensation shall be determined by the Deputy Commissioner of and the said lessee. In the event of their being unable to agree upon the same or in case of any dispute arising between the lessee and the Government as to the property and rights hereby reserved to Government, or as to any matter in any way relating thereto, the question shall be referred by the Deputy Commissioner to the officer empowered by Rule 12 of the rules for the granting of Government waste lands) to sanction the application for the lease of the said lands, whose decision shall be final and conclusive between the parties to this lease.

5. That he will not do any act inconsistent with, or injurious to any of the rights excepted and reserved to the Government in clause 2 of Part I. of this lease, and will not in any way interfere with the lawful use by the public of any thoroughfare within the said lands.

6. That he will duly comply with such directions as the Deputy Commissioner of shall issue requiring him to construct boundary marks on the limits of the said lands, and will keep them, when erected, in good repair.

7. That he will not cultivate or otherwise manage the said lands or any part of them, in a manner calculated to injure them permanently or to lessen their value.

8. That he will not assign or part with the possession of the said lands, or any part thereof, except to cultivators holding of himself, without the written permission of Government first obtained.

9. That he will, at the end or other sooner determination of the term, peaceably leave and surrender the said lands to the Government.

PART III.—*Rights and powers of Government.*

It is hereby agreed between the Government and the lessee—

1. That arrears of rent, or of any taxes, rates, or assessments whatsoever, may be recovered by Government from the lessee in the same manner as arrears of land-revenue may be recovered.

2. That if the lessee fails to take possession of the said lands within six months from the date of the execution of this lease by him, or if any instalment of rent shall be in arrears for days, or if any of the stipulations of the lessee shall not be duly observed by him, the Government may forthwith resume and take possession of the said lands as though this lease had never been granted.

3. That if the lands or part thereof be required during the term of the lease for any public purpose, the Government may determine the lease on giving not less than six months notice to the lessee, and the lessee shall on the expiration of the said period of six months vacate the lands, and shall have no claims to damages or to compensation, save in respect of improvements as hereinafter specified : Provided always that nothing in this clause contained shall be taken or understood to interfere with or any wise affect the rights of Government under the Land Acquisition Act, X. of 1870.

PART IV.—Duties and liabilities of lessee.

It is hereby declared and agreed that the lessee is and shall be bound to render all such assistance in the prevention and discovery of crime as is incumbent upon landholders by any law or rules for the time being in force in the Punjab, and is and shall be responsible in the same manner as village communities are under any track law, or rules for the time being in force in the Punjab.

2. That if the lessee omit or neglect to perform any obligation imposed upon him by such law or rules, the Government may thereupon cancel the lease and resume the lands, as explained in clause 2 of Part II. In addition to any penalties to which the lessee may be liable under any such law or rules.

PART V.—Rights and powers of lessee.

It is also hereby agreed between Government and the lessee—

1. That the lessee is and shall be at full liberty to sink wells, make watercourses, plant trees, build houses, and otherwise improve the said lands, and to locate cultivators, and is and shall be solely entitled to all agricultural and spontaneous products not expressly excepted and reserved by this lease.

2. That the lessee shall be entitled at any time during the said term of _____ years to purchase from the Government the proprietary right in the said lands on payment to the Government of a sum which shall represent (unless it be reduced by the Financial Commissioner) five years' purchase of the maximum amount of annual revenue and malikana payable under the terms of this lease.

3. That if the lease be determined under the provisions of Part III., clause 2 or clause 3, or Part IV., clause 2, or if on the expiry of the lease the Government decide that it shall not be renewed as the lands or part thereof are required for public purposes, the lessee shall be entitled to receive from the Government compensation for any improvements made by him in the said lands. Such compensation shall be assessed in the manner provided by the Punjab Tenancy Act, for the payment of compensation for improvements effected by occupancy tenants. The amount of such compensation shall be determined by the Deputy Commissioner of and the said lessee. In the event of their being unable to agree upon the same, the matter shall be referred by the Deputy Commissioner to the Financial Commissioner whose decision thereon shall be final and conclusive between the parties to this lease.

4. (That if, at the expiration of the term of this lease, a settlement of land-revenue shall be in progress in the district of _____ and the lessee shall continue in possession with the consent of Government, all the terms of this lease shall, in the absence of express agreement to the contrary, be deemed to continue in force until the conclusion of the settlement proceedings.*)

5. Unless the lands or part thereof be required for public purposes the lessee shall, on the expiry of the aforesaid term, be entitled, subject to the other provisions herein contained, to a renewal of this lease for such term and on such conditions as to the amount of land-revenue and rent or malikana and other charges to be paid by him, as may then be determined by Government.

Interpretation.

In this instrument the term "lessee" means and includes the said lessee, his heirs, and his or their legal representatives and assigns.

The term "Government" means and includes every person duly authorized to act for or represent the Government of the Punjab in relation to any matter or thing contained in or arising out of this lease.

In witness whereof the said parties have hereunto set their respective hands and seals the day and year first above written.

(Sd.) _____
Deputy Commissioner.

District.

{ Witnesses.

Lessee.

SCHEDULE I.

Description and boundaries of land hereinbefore leased.

Acres of land in Mauza _____
 Tahsil _____, District _____

Bounded—

On the North by

" " South "

" " East "

" " West "

(Notification No. 1179 S., dated 3rd September 1865, Punjab Gazette of same date, Part I, pp. 662—666.)

(c). It is hereby notified that the rules for sale of waste lands in the Punjab, issued under Notification in the Department of Revenue, Agriculture and Commerce, No. 83, dated 13th March 1882, are hereby cancelled.

2. Persons desirous of purchasing Government waste lands in the Punjab should apply in writing to the Deputy Commissioner of the district in which the land required is situated.

3. Except under special circumstances, and with the express authority of the Local Government, all future sales of waste lands, the property of Government, in the Punjab will be made only after a notice in annexed Form A, with its two Schedules, has been issued and published in the *Punjab Government Gazette*, and in strict accordance with the terms of the notice.

The annexed Forms B and C are prescribed for adoption in all cases where a sale of Government waste lands, pursuant to a notice under Form A, is completed, and Form D when the circumstances render a mortgage necessary.

FORM A.

Whereas application has been made to the Deputy Commissioner of the district of by AB, the son of CD, of _____, for the purchase of the lot of Government waste land, described in the particulars hereunto annexed and marked Schedule I, notice is hereby given that a plan of the said lot of waste land is open to inspection, free of charge, at the office of the Deputy Commissioner at _____ and that the said lot will be put up to

* Not less than three sale by public auction at the said Office on* the day of clear months from the next at _____ in the forenoon (afternoon), and will be sold date of this notice. upon the conditions hereunto annexed and marked Schedule II, unless the sale shall, in the meantime, have been stopped or postponed by order of superior authority or in consequence of claims or objections, made under Act-XXIII of 1863, or for any other reason.

Issued this day of 188 , at _____ by the undersigned.

YZ,

Deputy Commissioner.

SCHEDULE I.

Particulars of the lot to be sold.

1. The land to be sold is Government waste land, situate in _____ tahsil in the district of _____
2. It comprises an area of _____ acres more or less, and is bounded as follow :—

[Here enter the boundaries.]

3. The trees and underwood and all other products whatever of the above land will be included in the sale, save and except—

- (i) all mines, minerals, coals, gold-washings, and quarries in or under the said land ;
- (ii) in the case of a stream or a canal with a well-defined and permanent channel, the bed and the land for tow-paths should be excepted, and the dimensions or area be approximately stated ;
- (iii) when the land is traversed by a made road, on each side of which it is desired to keep a strip of sixty feet, the road and strips should be excepted, and the dimensions or area should be approximately stated ;
- (iv) &c., any other similar exceptions.

SCHEDULE II.

Conditions of sale.

I.—The land will be sold subject to all rights of way or water and other easements, if any,

*Here enter the name of subsisting thereon, and subject in particular to the right of the public to use the _____ together with a tow-path or describe otherwise any of 20 feet in width on each side of the channel of the same for the navigable stream or canal with a shifting channel the time being, and further subject to all other conditions or reservations which, under the provisions of Section 2 of Act XXIII which traverses the lot to be sold. of 1863, may be notified by the Deputy Commissioner at the time of sale.

II.—The land will be sold in full proprietary right, but subject—

(a) to the exception and reservation to Government, its successors, and assigns, of all mines, minerals, coals, gold-washings and quarries in or under the said land, and full right at all times to enter upon any part of the said land and to do all acts and things that may be necessary or expedient for the purpose of searching for, working, getting and carrying away any mines, minerals, coals, gold-washings or quarries in or under the said land, without leaving any vertical or lateral support for the surface thereof or any building for the time being standing thereon [the Government, its successors, and assigns making reasonable compensation to the grantee, his heirs, executors, and assigns and his or their lessees or tenants for all damage occasioned by the exercise of the rights hereby reserved] ;

(b) to the payment of the land revenue demand for the time being assessed thereon and of all general taxes and local taxes or cesses to which revenue-paying lands are liable.

In case of any dispute arising between the purchaser and Government as to the property and rights hereby reserved, or any matter incidental or in any way relating thereto, or as to any compensation payable under clause (a), the decision thereon in each case of the Lieutenant-Governor of the Punjab shall be considered final and binding on both parties. The sale is also subject to the limitation next following.

III.—The purchaser shall not alienate any portion of the lot sold before he shall have received the deed of conveyance hereinafter mentioned.

IV.—The land will be put up in one lot, and the biddings shall commence at an upset price of Rs. . . . No purchaser shall advance at each bidding less than Rs. . . . and no bidding shall be retracted, and the highest bidder above the upset price shall be the purchaser. In case of dispute between two equal bidders, the lot shall be put up again at the last preceding bidding.

V.—The purchaser shall immediately after the sale pay into the hands of the Deputy Commissioner, or whoever acts as auctioneer, the costs of survey and demarcation if not already paid by him, and a deposit in part payment of the purchase-money of not less than Re. 1 per acre of the lot, as estimated in the foregoing particulars, and sign an agreement in the Form B hereto annexed upon stamp paper to be provided at his expense.

VI.—In default of such payment, or in the event of refusal to sign such agreement, the lot may be put up again and re-sold. In the event of the foregoing conditions being fulfilled, the purchaser shall receive an attested copy of the said agreement upon stamp paper to be provided at his expense.

VII.—The purchaser, if he shall so require, will be supplied with a map of the land sold, to be prepared at his expense upon his depositing the sum estimated by the Deputy Commissioner to be sufficient for the purpose.

VIII.—Upon the expiration of one month from the date of sale, simple interest at the rate of 10 per cent. per annum shall be charged upon the balance of the purchase-money for the time being remaining unpaid.

IX.—Within three months from the date of sale, the purchaser shall, without demand, pay a sum which, together with the amount paid at the date of sale, shall amount to not less than one-half of the purchase-money, and shall also pay the interest, if any, due at the date of such payment.

The payment within the period specified of such amount, and of the interest due, if any, shall be deemed to be of the essence of the contract for sale.

X.—If the purchaser shall duly make such payment, he will thereupon be placed in possession of the land sold by an officer appointed in that behalf by the Deputy Commissioner, and shall furnish to such officer a written acknowledgment of receipt of possession.

XI.—If the purchaser shall make default in such payment, the Deputy Commissioner may rescind the contract, and the deposit shall be forfeited to the Government.

XII.—If the purchaser shall make the payment as required in clause IX, he shall, subject to the proviso in clause XIII, within two months from the date of delivering to the Deputy Commissioner at his office the stamp paper requisite for a deed of conveyance of the lands sold, or the value of such paper, receive, from the Deputy Commissioner, a deed of conveyance in English, signed by him in the Form C annexed to the *Punjab Government Gazette* Notification No. 760, dated 3rd November 1885, or to the same effect.

The delivery of such deed within the period specified shall not be deemed of the essence of the contract for sale, and the purchaser shall not, in default of such delivery, be entitled to rescind the contract.

XIII.—Provided that, if the whole of the purchase-money shall not have been paid previous to the delivery to the purchaser by the Deputy Commissioner of the deed of conveyance above-mentioned, the purchaser shall execute, when tendered, a mortgage deed to secure payment within five years of the unpaid balance, with interest thereon; such deed to be attached to the deed of conveyance in form D annexed to *Punjab Government Gazette* Notification No. . . . dated . . . or to the same effect. The deed of conveyance and the

deed of mortgage shall both be registered, and the latter stamped at the purchaser's expense, and shall remain in the possession of the local Government until the whole of the purchase-money, with the interest due thereon, shall have been paid, when the conveyance shall be made over to the purchaser, or his heirs or assigns, the mortgage deed having first been cancelled by the Deputy Commissioner of the district for the time being.

XIV.—All payments to be made under these conditions, on account of purchase-money or interest or any other charges, shall be made at the office of the Deputy Commissioner at

XV.—If the land is believed, and shall be taken, to be correctly described as to quantity and otherwise, and if any error, misstatement, or omission in the foregoing particulars shall be discovered, the same shall not annul the sale nor shall any compensation be allowed by the Government or by the purchaser in respect thereof.

FORM B.

Form of agreement referred to in No. 5 of the foregoing conditions.

I, AB the son of CD, of , do hereby acknowledge that on the sale by auction this day of 188 of the property described in the particulars annexed to the notice of sale issued by the Deputy Commissioner of , under date the , published at page of the Punjab Government Gazette, I was the highest bidder, and was declared the purchaser thereof, subject to the conditions of sale annexed to the said notice (and to* the further conditions and reservations notified by the Deputy Commissioner under the first of the said conditions) at the price of Rs. , and that I have paid the sum of Rs. by way of deposit and in part payment of the said purchase-money to the Deputy Commissioner of , and I hereby agree to pay the remainder of the said purchase-money and complete the said purchase according to the aforesaid conditions.

Signature of purchaser.

I hereby ratify this sale, and acknowledge receipt of the said deposit of Rs.

Signature of Deputy Commissioner.

FORM C.

Deed of conveyance referred to in No. 12 of the foregoing conditions.

This deed of grant made the day of in the year of our Lord one thousand eight hundred and eighty between the Secretary of State for India in Council (hereinafter called the grantor), of the first part, and A B, the son of C D (hereinafter called the grantee), of the second part, witnesseth that in pursuance of a contract of sale entered into by and on behalf of the parties aforesaid, and dated the day of 188 , and in consideration of the sum of Rs. of which amount the sum of Rs. has before the date of these presents been paid by the said A B to the grantor (whereof receipt is hereby acknowledged), and of the promises hereinafter contained, and by the said A B to be observed and performed, the Secretary of State for India in Council doth hereby grant and convey to the said A B the lands described in the

* When a map has been made, insert the words "and delineated in the map" after "schedule." schedule* hereunto annexed, together with all trees, under-wood, and agricultural produce of the said land, save and except and reserved unto the Government of India, its successors, and assigns, all mines, minerals, coals, gold-washings, and quarries in or under the said lands, and full right at all times to enter upon any part of the said land and to do all acts and things that may be necessary or expedient for the purpose of searching for, working, getting and carrying away any mines, minerals, coals, gold-washings, or quarries in or under the said land without leaving any vertical or lateral support for the surface or any building for the time being standing thereon, (the Government, its successors, and assigns making reasonable compensation to the grantee, his heirs, executors, administrators, and assigns and his or their lessees or tenants for all damage occasioned by the exercise of the rights hereby reserved). To hold the said lands unto him, the said A B, his heirs, and assigns for ever in full proprietary right, but subject nevertheless to all existing rights of way and water and other easements, if any, subsisting thereon; and to payment of the land revenue demand for the time being assessed thereon, and of all general taxes and local taxes, rates, or cesses for the time being imposed by competent authority in respect of the lands hereby conveyed or any part thereof. In case of any dispute arising between the said grantor and the said grantee as to the property and right hereby reserved or any matter incidental or in any way relating thereto, or as to any compensation as aforesaid, the decision in each case of the Lieutenant-Governor of the Punjab shall be considered final and binding on both parties.

And the grantee doth hereby, for himself, his heirs, and assigns, agree with the grantor his successors, and assigns as follows; That he will duly pay the said land revenue demand, taxes, rates, and cesses, when and as the same shall from time to time become due and payable.

And that he will erect permanent boundary-marks on the limits of the lands hereby granted, and will at all times maintain the same in good and substantial repair.

And that it shall be lawful for the Government, its successors, and assigns and for any engineers, surveyors, agents, workmen, or officers authorised by it or them in this behalf, to enter at all times upon any part of the said lands and to do all acts and things that may be necessary or expedient for the purpose of searching for, working, getting, and carrying away all mines, minerals, coals, gold-washings, and quarries in or under the said lands, it or they making compensation (as hereinbefore provided) to the grantee, his heirs and assigns for any damage occasioned thereby.

And that he will maintain such establishment for the purposes of police and conservancy in respect to the said lands as may be required by the general rules in force for the time being in that behalf.

In witness whereof the undersigned have hereunto subscribed their hands.

Deputy Commissioner of the District on
behalf of the Secretary of State for India in
Council.

Signed in presence of XY, witness, this day
of 188 .

AB (the purchaser) signed in presence of YZ
witness, this day of 188 .

Schedule.

acres more or less of Government waste land situated in tahsil in the
district of and bounded as follows:

(Boundaries).

Excepted and reserved [describe exceptions with area or dimensions, and add, when
there is a map, "delineated (in color) on the map hereunto annexed."]

Deputy Commissioner of the District.

AB (the purchaser).
Map (if any) signed as above.

FORM D.

Mortgage deed to be attached to Form D referred to in No. 13 of the foregoing conditions.

This deed of mortgage made the * day of 188 , between the parties to the

* The date of signature above-written deed of grant, dated the day of 188
by the mortgagor. witnesseth that AB, the son of CD, the above-named grantee, doth
hereby acknowledge that the sum of Rs. in part of the purchase-
money of the lands granted and conveyed by the said deed remains due and owing to the Secretary
of State for India in Council, the above-named grantor, and the said AB, doth hereby for himself,
his heirs, and assigns, agree with the said grantor, his successors, and assigns that he will pay the
said principal sum of Rs. , together with simple interest calculated upon the whole or such
portion thereof, as shall from time to time remain unpaid, at the rate of 10 per cent. per annum
from the † day 188 , by five annual payments of not less than Rs.

‡ and in addition thereto of interest calculated as
aforesaid up to the date of each payment made, the first of such
payments of principal and interest to be made on or before the

† The date on which
payment of the first half of
the purchase-money was
completed.

‡ One-tenth of the pur-
chase-money.

§ The anniversary of the
date above written.

by grant and convey to the said grantor, his successors,
and assigns, by way of mortgage, the whole of the lands granted and conveyed to him,
the said AB, by the above-written deed of grant, but so as that possession of the
said lands shall be and continue with the said AB, his heirs, and assigns. And this deed
further witnesseth that the said AB hereby agrees that in case default shall be made by the
said AB, his heirs, or assigns in any one or more of the payments hereinbefore agreed to be
made, the whole of the balance of the principal sum, remaining unpaid at the date of such
default, shall be deemed thereupon to accrue due and payable immediately, and it shall be lawful
on any such default for the said grantor, his successors or assigns to enter upon the lands here-
by mortgaged or any part thereof and thenceforth quietly to possess and enjoy the same and
receive the rents and profits thereof, and also with or without such entry at any time or times

and without any further consent on the part of the said AB, his heirs or assigns, to sell the said lands or any part thereof by public auction, and at any such sale to buy in the said lands or any part thereof, with power also to execute deeds give effectual receipts for the purchase-money, and do all other acts or things for completing the sale which the said grantor, his successors or assigns shall think proper, and also to seize and make sale by public auction of the whole or any part of the moveable property of the said AB, his heirs, or assigns that may be found upon the lands hereby mortgaged or elsewhere soever; and it is hereby agreed and declared that the said grantor, his successors and assigns shall stand possessed of the monies arising from any such sale in trust first to pay and retain the costs and expenses attending such sale or otherwise incurred in relation to this security, and in the next place to pay and satisfy the monies which shall then be owing upon the security of these presents, and lastly to pay the surplus, if any, to the said AB, his heirs, or assigns.

And the grantor for himself, his successors and assigns, doth hereby agree with the said AB his heirs, and assigns that if he or they shall duly pay the whole of the principal sum hereby secured, together with the interest due thereon, he, the said grantor, his successors or assigns, will thereupon cause the above-written deed of grant to be delivered to the said AB, his heirs, or assigns, with this deed of mortgage cancelled by the Deputy Commissioner of the District of for the time being.

In witness whereof the undersigned have hereunto subscribed their hands.

AB, (purchaser).
Signed in presence
of XY, witness this
day of 188 .
LM,
Deputy Commissioner of the
District on behalf of
the Secretary of State
for India in Council
signed in presence of
YZ, witness, this
day of 188

(No). 760, dated 3rd November 1885, Punjab Gazette of 5th idem, Part I, page 779).

(d). The resolutions of the Government of India, printed as Appendix A to this Circular, define the sanction required for the various kinds of grants of Government lands, and for sales of Government lands on favourable terms to individuals for their private benefit without reference to public services to be performed by them. The rules contained in these resolutions do not affect those in force as to the sale of waste lands belonging to Government.

2. A statement, in the annexed form (Appendix B), is required to be submitted by Deputy Commissioners through Commissioners to this office at the close of each official year. All alienations of State lands, whether by grant exchange, or sale at favourable rates, of the kinds described in the resolutions printed as Appendix A, should be included in this statement; but sales of land by auction under the rules for the sale of waste land and alienations of land which, under competent authority, has been constituted the property of a municipality or other local body, and alienations of nazul land should be excluded. All lands of which possession has been given to grantees as proprietors during the year, and not only those for which deeds of grant have been executed, should be entered in the annual statement. The term nazul is not very fully defined in para. 77 of Barkley's Edition of Directions for Collectors. The following extract from a letter of the Punjab Government, No. 434, dated 20th February 1877, gives a fuller description of the various kinds of property included under this head. But possibly it does not exhaust all cases in which property owned by Government can be regarded as nazul.

Extract, para 2 of Punjab Government letter No. 434, dated 20th February 1877.

"Practically the Lieutenant-Governor thinks the nature of nazul property does not admit of such dispute, and he would regard such property as consisting of lands and houses in the immediate neighbourhood of a town which have come into the hands of Government, and which are not distinctly connected with a mahal or estate, and which cannot be deemed to belong to land-revenue proper, or escheats of gardens, lands, or buildings belonging to late Governments comprised in the limits of a town or municipality. Shares in wells in the interior of districts would not fall within the meaning of the term."

3. The rules in force regarding the sale and lease of waste lands are contained in Punjab Government Notifications Nos. 760, dated the 3rd November 1885, and 1179 S., dated the 3rd September 1885, respectively, copies of which are annexed as appendices C and D to this Circular. The only alteration in the rules for the sale of waste lands is that Deputy Commissioners are now empowered, under a Resolution of the Supreme Government, dated the 25th August 1885, to sign instruments relating to the sale of waste lands.

4. The rules for the lease of waste lands have been considerably modified, and have been re-arranged. On receiving an application for a lease of waste land, the first thing to be done, unless the application is summarily rejected under para. 3 of the rules, is to have the land demarcated, surveyed and mapped. The Deputy Commissioner should require the applicant to deposit a sum equivalent to the estimated cost of these operations. The cost will, of course, vary according to circumstances, but should not exceed one anna for each acre of land applied for, except in cases in which boundary pillars have to be erected, when the rate of one anna per acre may be exceeded by the actual cost of erecting the boundary pillars. The form for reporting on applications for leases of land not exceeding 100 acres has not been altered. But in cases where it is proposed to lease larger areas than this, a fuller report should be submitted in the form of a letter. It should be noticed that, under para. 10 of the rules, one-fourth of the assessment proposed must always be added as *malikana*. Leases of land not exceeding 300 acres may, as before, be sanctioned by the Commissioner. Leases of areas exceeding 300 acres require the sanction of the Financial Commissioner; and if the area exceeds 3,000 acres, the special sanction of Government must be obtained. Deeds of lease, which should be drawn up in the form annexed to the rules, may in all cases be signed by the Deputy Commissioner. Para. 20 of the rules empowers the lessee to purchase the proprietary right in the land at any time during the currency of the lease by paying a sum equivalent to five times the amount of the *maximum revenue and malikana payable under the terms of the lease*. The sum to be so paid may, however, be reduced for special reasons by the Financial Commissioner. Rule 22 gives the Government the right of taking over the land, if it is required for a public purpose, at any time during the currency of the lease, by giving six months' notice. If the lessee is evicted, he will be entitled to compensation for improvements, as if he had a right of occupancy under the Tenancy Act. On the expiration of the lease, if the land is not required by Government, the lessee (if he does not purchase under Rule 20) is entitled to a renewal of his lease on terms to be fixed by the officers who originally sanctioned the lease.

5. Before sending up proposals for leases or other grants of waste land irrigable from a Government canal, Deputy Commissioners should ascertain from the local officers of the Irrigation Department whether, under the rules of the Department, irrigation will be admissible or feasible, and if so, to what proportion of the proposed grant water can be supplied.

6. Appendix E contains rules for the grants of waste lands on favourable terms to Native officers in Civil and Military employ as rewards for meritorious services.

7. The Financial Commissioner fears that sufficient attention is not always paid to the inspection of Government lands granted to lessees for a term of years for cultivation, and that in some cases the terms on which the leases were granted have not been properly fulfilled by the grantees. The state of lands held on lease usually comes under examination during settlement operations, and on other special occasions when attention is directed to particular cases; but these incidental checks are not sufficient, and a more systematic procedure must in future be observed. In some districts the area held on Government leases is very large, and it is necessary in the interests of Government, that inspection of the lands by Revenue officers should be constant and careful, without, however, needlessly harassing the lessees. The condition on which leases are held should always be enforced, and with this view it is necessary that Deputy Commissioners should instruct Tahsildars and Naib-Tahsildars to inspect and report on the lands annually, or at the stated periods, if any, mentioned in the leases, as terms during which improvements are to be effected. Deputy Commissioners and Assistant Commissioners should also take the opportunity, when in camp, of inspecting lands granted on lease.

8. In all cases in which plans are submitted to illustrate reports recommending the lease or sale of waste land, two plans should be prepared; one, a tracing from a small scale map, showing the position of the rakh in which the land is situated with reference to neighbouring villages, roads, canals, &c.; the other, a tracing from the 4-inch revenue survey or other large scale map, showing details of cultivation and means of communication and irrigation with the rakh itself, and also giving in feet the distances between the boundary pillars which mark the points at which a change of direction takes place in the boundary of the area proposed to be leased or sold. The meridian line should always be marked on such plans.

9. All deeds of sale or lease, where the area alienated exceeds 300 acres, must be engrossed on single sheets of parchment. Deeds of grant and sanads conferring jagirs must also in every case, without exception, be engrossed on this material. Deeds by which land is hypothecated to Government as security for the repayment of a loan, and deeds of sale or lease where the area sold or leased does not exceed 300 acres, may be prepared upon single sheets of stout durable paper. In no case shall ordinary foolscap be used.

10. Deeds of lease must be stamped as required by Act I. of 1879, Schedule I, No. 39, unless they are exempted from stamp duty under Schedule II, No. 13 (b). The counterparts of these deeds need not be stamped—(see para.

Stamp.

13 (c) of Schedule II of the Act.

II. The following Circulars are hereby superseded:—

Circular No. 70 of 1869.

Book Circular No. III. of 1872.

" " " XXII. of 1876.

" " " XVIII of 1876.

" " " VI of 1877.

" " " VII. of 1877.

" " " IV. of 1878.

" Circular No. 31 of 1878.

" " " 68 of " "

" " " 27 of 1880.

Book Circular No. VII. of 1881.

Circular No. 21 of 1882.

" " " 31 of 1884.

" " " 30 of 1885.

APPENDIX A.

No. $\frac{1}{145}$.

Extract from the Proceedings of the Government of India, in the Department of Agriculture, Revenue and Commerce, dated Fort William, the 6th February 1872.

(LAND-REVENUE AND SETTLEMENTS).

READ again—

Financial Department Resolution No. 557, dated 25th January 1870.

Home Department Circular Resolution No. 229—39, dated 27th April 1870.

Financial Department Resolution No. 1452, dated 23rd June 1870.

Home Department Circular No. 427—36, dated 4th July 1870.

RESOLUTION.—In the resolutions quoted above it was ruled that the sanction of the Government of India should be obtained to the alienation of all Government land, whether actually paying revenue or not, except grants of waste land made under the approved rules, and that Government land, whether paying revenue or not, should not be parted with, save under the rules applicable to the expenditure of public money. It was also laid down that, if the sale of small plots of escheated land for the benefit of local funds has not been duly sanctioned, it must be considered subject to the above restrictions.

2. Several Local Governments and Administrations having represented the inconveniences arising from a strict adherence to these orders, the Governor-General in Council has been pleased to modify them as follows:—

3. Lands to be disposed of will necessarily divide themselves into two classes:—

First.—Those which are the property of the State.

Second.—Those which, under competent authority, have been constituted the property of a municipality or other local body.

4. Lands of the first class may be disposed of in various ways—

First.—By sale at full market value. —

Second.—By sale, on favourable terms, to a public body or association, or to an individual for a public purpose.

Third.—By gift or grant to—

(a) A public body or association, or to an individual for a public purpose.

(b) Private individuals in remuneration for public services to be performed.

(c) Private individuals for their private benefit, without reference to future services.

5. As regards lands falling into the second of the above classes which have been, under a competent authority, constituted the property of a local body, the Government of India will exercise no interference. It will be the duty of Local Governments and Administrations to satisfy themselves that the lands in question have been transferred under proper authority, and this having been ascertained, the sanction of the Local Government or Administration will be sufficient for the disposal of the lands.

6. As regards lands, the property of the State, such of them as are governed by the rules for the grant of waste lands will continue to be dealt with under rules on this subject in force for the time being.

7. As regards lands, the property of the State, other than waste lands, which are sold for full value, no reference to the Government of India need be made where the full value does not exceed Rs. 10,000. Up to this amount the sanction of the Local Government or Administration will in all cases be sufficient. The amount realized by the sale of the land should invariably be credited to the general revenues, and the sale should be duly noticed in the proceedings of the Local Government or Administration.

8. As regards the sale of lands on favourable terms for a public purpose, in no case should the recipient pay less than half the full market value of the lands granted, and whenever such full value exceeds the sum of Rs. 1,000, the sanction of the Government of India should be previously obtained. The amount realized by the sale should in all cases be credited to the general revenues, and the sale should be noticed in the proceedings of the Local Government or Administration.

9. As regards the gift or grant of lands, the previous sanction of the Government of India should be obtained in cases where the value of the grant exceeds Rs. 3,000 when given as a site for the construction of Government schools, hospitals, dispensaries or other public works, at the cost of recognized local funds; where it exceeds Rs. 500, when given for any other public purpose, or to a private individual for services to be performed to the State,* or where it exceeds Rs. 100 when the services are to be performed to the community; and in all cases of grants to individuals for their private benefit, irrespective of any services to be performed.

Extract from the Proceedings of the Government of India, in the Department of Revenue, Agriculture and Commerce, No. 1—649, dated Simla, the 31st August 1877.

READ again —

Resolution No. 1141-151, dated the 6th February 1872, prescribing certain rules in respect to the alienation of Government land.

RESOLUTION.—His Honor the President in Council observes that the resolution read in the preamble makes no express provision for the case of land sold on favourable terms to an individual for his private benefit without reference to public services to be performed by him. His Honor in Council is accordingly pleased to decide that such sales shall be treated as coming under sub-division (c) of head 3 of the heads specified in paragraph 4 of the resolution, and that, as in the case of gift or grant to individuals for their private benefit, the sanction of the Government of India must be obtained to all such alienations.

2. In the statements called for in the Circular from this Department No. 2-556-5 dated 1st August 1876, all such alienations should be entered under clause (c) of head 3.

RESOLUTION No. $\frac{5}{320-10}$ dated 20th June 1881.

Extract from the Proceedings of the Government of India, in the Home, Revenue and Agricultural Department (Revenue), under date Simla the 20th June 1881.

In continuation of the orders cited in the preamble, and dated the 6th February 1872, the Governor-General in Council has been pleased to decide that, where land, the property of the State, is alienated in exchange for land which is private property, and is of equal value with the land given up by the State, Local Governments shall have the same power of disposal as in case of sales for full value of lands other than waste lands, that is to say, no reference to the Government of India need be made when the value of each plot of land exchanged does not exceed Rs. 10,000.

2. The Governor-General in Council has further decided that where land is transferred without involving the loss of any revenue from one department of Government to another, the revenues of both departments being credited to Imperial funds, it is unnecessary to enter the transfer in the annual statements of alienations of Government properties submitted by Local Governments.

APPENDIX B.

Annual Statement of alienations of State lands (see para. 2 of the Circular).

1	2	3	4	5	6	7	8	9	10	11
DISTRICT.	Village, estate, or township.	Area in acres.	Estimated yearly rent value.	Estimated market-value.	Party or parties in whose favour alienated.	Class of alienation as defined in para. 4 of Govt. of India Resolution No. 1-145, dated 6th Feby. 1872.	Grounds for alienating.	Authority sanctioning alienation.	No. and date of orders.	REMARKS. [Here enter all further details necessary for a full elucidation of the case not set forth under any of the preceding headings].

APPENDIX C.

Notification of the Government of the Punjab in the Department of Revenue and Agriculture, No. 760, dated 3rd November 1885.
(Vide Note (c) *super*).

APPENDIX D.

Notification of the Government of the Punjab in the Department of Revenue and Agriculture No. 11798., dated the 3rd September 1885.
(Vide Note (b) *super*).

APPENDIX E.

Rules for Grant of Waste Lands to Native Officers in Civil and Military employ as Rewards for Meritorious Service.

1. Grants of Government waste land, by way of lease on favourable terms or by gift or in any other shape as rewards for service, will be given only in tracts in which land is available to the public under the rules for the sale and lease of waste lands.
2. Such grants will be made only for very marked and distinguished services.
3. The area granted will not ordinarily exceed 500 acres. If a grantee desire to obtain more land, he must apply for it under the ordinary rules for the sale and lease of waste lands.
4. Recommendations for such rewards for Native officers in Military employ must be made by the officers commanding their regiments, and will be addressed, in the case of Native officers of the Bengal Army, to Army Head-quarters; and in that of Native officers of the Punjab Frontier Force, to the General Commanding that Force, who will forward them to the Military Secretary to the Punjab Government.
5. Rewards of this kind for officers in Civil employ may be proposed by Heads of Departments, by Commissioners, or with previous consent of the Commissioners, by Deputy Commissioners, and must be forwarded through the Financial Commissioner for the orders of Government.

(Financial Commissioner's Circular No. 60 of 1885).

ACT No. XXXI of 1863.

(Passed on the 16th December 1863).

An Act to give effect to the publication of certain orders and other matters in the *Gazette of India*.

Whereas the Governor-General of India in Council has resolved to publish an official Gazette, to be called the *Gazette of India*, containing such orders, notifications, and other matters as the Governor-General of India in Council shall direct to be inserted therein; It is enacted as follows:—

- Preamble.
1. When in any Regulation or Act now in operation, or in any rule having the force of law, it is directed that any order, notification or other matter shall be published in the official Gazette of any presidency or place, such order, notification or other matter shall be deemed to be duly published in accordance with the requirements of the law, if it be published either in the Gazette in which it would have appeared but for the passing of this Act, or in the *Gazette of India* under the directions of the Governor-General of India in Council.

NOTE.—This Act is declared to be in force throughout the whole of British India, except the Scheduled Districts, by Act XV of 1874. It has also been declared to be in force in certain of the Scheduled Districts of the Punjab (*vide* Notes (a) and (b) to Act XIV of 1874).

ACT No. III of 1864.

(Passed on the 12th February 1864).

An Act to give the Government certain powers with respect to Foreigners.

Whereas it is expedient to make provision to enable the Government to prevent the subjects of foreign States from residing or sojourning in British India, or from passing through or travelling therein, without the consent of the Government; It is enacted as follows:—

1. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction, that is to say:—

Interpretation. The words "British India" shall denote the territories which are or may become vested in Her Majesty by the Statute 21 and 22 Victoria, Chap. 106, entitled "*An Act for the better Government of India*":

"Local Government." The words "Local Government" shall denote the persons authorized to administer the executive government in any part of British India, or the chief executive officer of any part of British India under the immediate administration of the Governor-General of India in Council, when such chief executive officer shall, by an order of the Governor-General of India in Council published in the *Gazette of India*, be authorized to exercise the powers vested by this Act in a local Government:

"Foreigner." The word "foreigner" shall denote a person, not being either a natural-born subject of Her Majesty within the meaning of the Statute 3 and 4 William IV, Chap. 85, Section 81, or a native of British India:

"Magistrate of the District." The words "the Magistrate of the District," shall denote the chief officer charged with the executive administration of a district and exercising the powers of a Magistrate, by whatever designation the chief officer charged with the executive administration is styled, or, in the absence of such officer from the station at which his Court is usually held, the senior officer at the station exercising the powers of a Magistrate as defined in the Code of Criminal Procedure:

"Vessel." The word "vessel" shall include any thing made for the conveyance by water of human beings or property:

Number. Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number:

Gender. Words importing the masculine gender shall include females.

2. If a question shall arise whether any person alleged to be a foreigner and to be subject to the provisions of this Act is a foreigner or not, or is or is not subject to the provisions of this Act, the onus of proving that such person is not a foreigner, or is not subject to the provisions of this Act, shall lie upon such person.

3. The Governor-General of India in Council, may, by writing, order any foreigner to remove himself from British India, or to remove himself therefrom by a particular route to be specified in the order; and any Local Government may, by writing, make the like order with reference to any foreigner within the jurisdiction of such Government.

4. If any foreigner ordered to remove himself from British India, or ordered to remove himself therefrom by a particular route, shall neglect or refuse so to do; or if any foreigner, having removed himself from British India in consequence of an order issued under any of the provisions of this Act, or having been removed from British India under any of the said provisions, shall wilfully return thereto without a license in writing granted by the Governor-General of India in Council or by the Local Government under whose order he shall have removed himself or been removed, such foreigner may be apprehended and detained in safe custody, until he shall be discharged therefrom by order of the Governor-General of India in Council, or of the Local Government within whose jurisdiction he shall be so apprehended or detained, upon such terms and conditions as the said Governor-General of India in Council or Local Government shall deem sufficient for the peace and security of British India, and of the allies of Her Majesty, and of the neighbouring Princes and States.

NOTE.—“The attention of the Governor-General in Council having been drawn to the fact that gangs of foreigners, calling themselves *Kabulis*, *Hiratis* or *Khorasanis*, and of doubtful, if not lawless, character, have been found wandering through several parts of India, it is considered desirable to issue some general instructions as to the mode in which such bands should be dealt with.

* Foreign Department orders dated 24th November 1866, to which attention was again called in orders of Home Dept., Nos. 105-11, dated 6th January 1866.

“2. The necessity of strictly observing the orders * of Government, which prohibited the issue of passports or *rah-dāri perwanas*, should be impressed on all Magisterial authorities.

“3. The provisions of Act XXXI of 1860 (*the Arms Act*) should be stringently enforced in respect of all foreigners whose occupation and means of livelihood are not removed from all suspicion.

“4. Whenever it may appear to the officer in charge of a district that the presence there of any foreigners is undesirable, instead of passing them on to an adjacent district he should submit a report of the circumstances, through the proper authority, to the local Government, which will then, if sufficient cause be shown, deal with the case under the provisions of Sections 3 and 4, Act III of 1864.

“5. Care must at the same time be taken that, under the orders now issued, no vexatious and unnecessary interference shall be exercised towards bodies of peaceable foreign merchants and traders who may visit India with the distinct aim of trafficking at particular parts, or residing at centres of commerce and industry.

“6. The Governor-General in Council will not object to vest, if necessary, Chief Commissioners with the powers of a Local Government under Act III of 1864, and should any Local Government or Administration be of opinion that the provisions of the first four sections of the Act are not sufficient check upon the evil to be redressed, an application should be made for the extension to such territories of the remaining sections of the Act.

(No. 4551—72, dated 12th November 1868 — From Officiating Secretary to Government of India, Home Department, to Government Punjab).

5. Whenever the Governor-General of India in Council shall consider it necessary to take further precautions in respect of foreigners residing or travelling in British India or any part thereof, it shall be lawful for the Governor-General of India in Council, by a notification published in the *Gazette of India*, to order that the provisions of this and the subsequent sections of this Act shall be in force in

British India, or in such part thereof as shall be specified in such notification for such period as shall be therein declared; and thereupon, and for such period, the whole of this Act including this and the subsequent sections shall have full force and effect in British India or such part thereof as shall have been so specified. The Governor-General of India in Council may from time to time, by a notification published as aforesaid, cancel or alter any former notification which may still be in force, or may extend the period declared therein. Provided that none of the provisions of

Proviso. this or the subsequent sections of this Act shall extend to any Foreign Minister duly accredited by his Government; to any Consul or Vice-Consul; to any person under the age of fourteen years; or to any person in the service of Her Majesty.

6. Every foreigner, on arriving in any part of British India in which all the provisions of this Act are for the time being in force under an order issued as provided in the last preceding section, from any port or place not within British India or from any port or place within British India where all the provisions of this Act are not in force, shall, if he arrive at a presidency town forthwith report himself to the Commissioner of Police of such town, or, if he arrive at any other place, then he shall forthwith report himself to the Magistrate of the District, or to such other officer as shall be appointed to receive such reports, by the Governor-General of India in Council or by the Local Government of such place.

7. The report shall be in writing, and shall be signed by the person reporting himself, and shall specify his name, or names, the nation to which he belongs, the place from which he shall have come, the place or places of his destination, the object of his pursuit, and the date of his arrival in such presidency town or other place. The report shall be recorded by the officer to whom it is made.

8. The provisions of the last two preceding sections shall not extend to any person being the master or commander of a vessel or employed therein, but if any such person shall be in any part of British India in which all the provisions of this Act are for the time being in force, after he shall have ceased to be actually employed in a vessel, he shall forthwith report himself in manner aforesaid.

Foreigners neglecting to report themselves, may be dealt with in like manner as foreigners travelling without a license.

9. If any foreigner shall neglect to report himself as required by this Act, he may be dealt with in the manner hereinafter provided in respect of foreigners travelling without a license.

No foreigner to travel in India without a license.

10. No foreigner shall travel in or pass through any part of British India in which all the provisions of this Act are for the time being in force without a license.

11. Licenses under this Act may be granted by the Governor-General of India in Council or by any of the Local Governments, under the signature of a Secretary to the Government of India or to such Local Government as the case may be, or by such other officers as shall be specially authorized

License by whom to be granted.

to grant licenses by the Governor-General of India in Council, or by any of the Local Governments.

12. Every such license shall state the name of the person to whom the license is granted, the nation to which he belongs, the district or districts through which he is authorized to pass or the limits within which he is authorized to travel, and the period (if any) during which the license is intended to have effect.

What to be stated in license.

13. The license may be granted subject to such conditions as the Governor-General of India in Council or the Local Government may direct, or as the officer granting the license may deem necessary. Any license may be revoked at any time by the Governor-General of India in Council, or by the Local Government of any part of British India in which all the provisions of this Act are for the time being in force and in which the foreigner holding the same may be, or by the officer who granted the license.

License may be granted subject to conditions, and may be revoked.

14. If any foreigner travel in or attempt to pass through any part of British India without such license as aforesaid, or beyond the districts or limits mentioned therein, or after such license shall have been revoked, or shall violate any of the conditions therein specified, he may be apprehended without warrant by any officer exercising any of the powers of a Magistrate, or by any European commissioned officer in the service of Her Majesty, or by any member of a volunteer corps enrolled by authority of Government whilst on duty, or by any police officer.

Foreigner travelling without or contrary to the conditions of license, may be apprehended.

15. If any person be apprehended by a person not exercising any of the powers of a Magistrate and not being a police officer, he shall be delivered over as soon as possible to a police officer, and forthwith carried before the Magistrate of the District. Whenever any person shall be apprehended by or taken before the Magistrate of the District, such Magistrate shall immediately report the case to the Local Government to which he is subordinate, and shall cause the person brought before him to be discharged, or to be conveyed to one of the presidency towns, or pending the orders of such Government to be detained.

Procedure upon apprehension.

Magistrate to report to Government.

16. Any person apprehended or detained under the provisions of this Act, may be admitted to bail by the Magistrate of the District, or by any officer authorized to grant licenses, and shall be put to as little inconvenience as possible during his detention in custody.

Persons apprehended may be admitted to bail.

17. The Local Government of any part of British India in which all the provisions of this Act are for the time being in force, may order any person apprehended or detained under the provisions of this Act to remove himself from any such part of British India, by sea or by such other route as the said Local Government may direct; or the said Local Government may cause him to be removed from such part of British India by such route and in such manner as to such Local Government shall seem fit. The Governor-General of India in Council may exercise all the powers given by this section to any Local Government.

Removal of persons apprehended.

18. The Governor-General of India in Council may by order prohibit

Governor-General may prohibit persons not being natural-born subjects from travelling or passing through any part of India without a license.

any person or any class of persons not being natural-born subjects of Her Majesty within the meaning of the Statute 3 and 4 William IV, chap. 85, Section 81, from travelling in or passing through any part of British India in which all the provisions of this Act may for the time being be in force, and from

passing from any part thereof to another without a license to be granted by such officer or officers as shall be specified in the order; and if any person so prohibited shall wilfully disobey such order, he may be apprehended without warrant by any of the officers specified in Section 14 of this Act, and carried before the Magistrate of the District, and dealt with under the provisions of Section 17 in the same manner as if he were a foreigner: and the Governor-General of India in Council may order such person to be detained in safe custody or under the surveillance of the police so long as it may be deemed necessary for the peace and security of British India or any part thereof.

19. The Local Government of any presidency or place in which all the

Also the Local Governments within their respective jurisdictions.

provisions of this Act may for the time being be in force, may by order prohibit any person or any class of persons not being natural-born subjects of Her

Majesty within the meaning of the Statute 3 and 4 William IV, chap. 85, Section 81, from travelling in or passing through such presidency or place or any part thereof, and from passing from any part thereof to another, without a license to be granted by such officer or officers as shall be specified in the order; and if any person so prohibited shall wilfully disobey such order, he may be apprehended without warrant by any of the officers specified in Section 14 of this Act, and carried before the Magistrate of the District, and dealt with under the provisions of Section 17 in the same manner as if he were a foreigner; and the Local Government may order such person to be detained in safe custody or under the surveillance of the police so long as it may be deemed necessary for the peace and security of British India or any part thereof.

20. It shall be lawful for the Commissioner of Police, or for the

Certain officers may board vessels to ascertain whether foreigners are on board.

Magistrate of the District, or for any officer appointed to receive reports as mentioned in the sixth section of this Act, or for any police officer under the authority of such Commissioner or Magistrate, to

enter any vessel in any port or place within British India in which all the provisions of this Act may for the time being be in force, in order to ascertain whether any foreigner bound to report his arrival under the said Section 6 of this Act is on board of such vessel; and it shall be lawful for such Commissioner of Police, Magistrate, or other officer as aforesaid, to adopt such means as may be reasonably necessary for that purpose; and the master or commander of such vessel shall also, before any of the passengers are allowed to disembark, if he shall be required so to do by such Commissioner of

Master of vessel to furnish list of passengers, and to give information respecting them.

Police, Magistrate, or other officer as aforesaid, deliver to him a list in writing of the passengers on board, specifying the ports or places at which they embarked, and the ports or places of their disembarkation, and answer to the best of his know-

ledge all such questions touching the passengers on board the said vessel, or touching those who may have disembarked in any part of British India, as shall be put to him by the Commissioner of Police, Magistrate or other

officer as aforesaid. If any foreigner on board such vessel in any part of British India shall refuse to give an account of his objects of pursuit in India, or if his account thereof shall not be satisfactory, the officer may refuse to allow him to disembark, or he may be dealt with in the same manner as a foreigner travelling in British India without a license.

Foreigner refusing to give account of himself, not to be allowed to disembark.

21. If the master or commander of a vessel shall wilfully give a false answer to any question which by Section 20 of this Act he is bound to answer, or shall make any false report, he shall be held to have committed the offence specified in Section 177 of the Indian Penal Code.

Penalty for false answer or report.

22. If the master or commander of any vessel shall wilfully neglect or refuse to comply with the requisitions of this Act, he shall, on conviction before the Magistrate of the District or a Justice of the Peace, be liable to a fine not exceeding two thousand rupees.

Penalty for neglect by master of vessel to comply with requisitions of Act.

23. Whoever intentionally obstructs any officer in the exercise of any of the powers vested in him by this Act, shall be held to have committed the offence specified in Section 186 of the Indian Penal Code.

Penalty for obstructing officers.

24. All fines imposed under this Act may, according as they shall have been imposed for offences committed within or for offences committed beyond the limits of the towns of Calcutta, Madras and Bombay, be recovered by a Magistrate of Police or by the Magistrate of the District in the manner prescribed in Section 26 of Act XLVIII of 1860 (*to amend Act XIII of 1856 for regulating the Police of the towns of Calcutta, Madras, and Bombay*).

Fines imposed under this Act how to be recovered.

25. The Governor-General of India in Council, or the Local Government of any part of British India in which this Act may for the time being be in force, may exempt any person, or any class of persons, either wholly or partially, or temporarily or otherwise, from all or any of the provisions of this Act contained in any of the sections subsequent to Section 5, and may at any time revoke any such exemption.

Persons may be exempted from provisions of this Act.

NOTE.—This Act is declared to be in force throughout the whole of British India, except the Scheduled Districts, by Act XV of 1874. It has also been declared to be in force in certain of the Scheduled Districts of the Punjab (*vide* Notes (a) and (b) to Act XIV of 1874).

ACT No. VI of 1864.

(Passed on the 18th February 1864).

An Act to authorize the punishment of whipping in certain cases.

Whereas it is expedient that in certain cases offenders should be liable, under the provisions of the Indian Penal Code, to the punishment of whipping; It is enacted as follows:—

Preamble

1. In addition to the punishments described in Section 53 of the Indian Penal Code, offenders are also liable to whipping under the provisions of the said Code.

Whipping added to the punishments described in Section 53 of the Penal Code.

Offences punishable with whipping in lieu of other punishment prescribed by Penal Code.

2. Whoever commits any of the following offences may be punished with whipping in lieu of any punishment to which he may for such offence be liable under the Indian Penal Code, that is to say :—

- (1). Theft, as defined in Section 378 of the said Code.
- (2). Theft in a building, tent, or vessel as defined in Section 380 of the said Code.
- (3). Theft by a clerk or servant, as defined in Section 381 of the said Code.
- (4). Theft after preparation for causing death or hurt, as defined in Section 382 of the said Code.
- (5). Extortion by threat, as defined in Section 388 of the said Code.
- (6). Putting a person in fear of accusation in order to commit extortion, as defined in Section 389 of the said Code.
- (7). Dishonestly receiving stolen property, as defined in Section 411 of the said Code.
- (8). Dishonestly receiving property stolen in the commission of a dacoity, as defined in Section 412 of the said Code.
- (9). Lurking house-trespass, or house-breaking, as defined in Sections 443 and 445 of the said Code, in order to the committing of any offence punishable with whipping under this section.
- (10). Lurking house-trespass by night, or house-breaking by night, as defined in Sections 444 and 446 of the said Code, in order to the committing of any offence punishable with whipping under this section.

3. Whoever, having been previously convicted of any one of the offences specified in the last preceding section, shall again be convicted of the same offence, may be punished with whipping in lieu of or in addition to any other punishment to which he may for such offence be liable under the Indian Penal Code.

On second conviction of any offence mentioned in last section, whipping may be added to punishment.

4. Whoever, having been previously convicted of any one of the following offences, shall be again convicted of the same offence, may be punished with whipping in addition to any other punishment to which he may be liable under the Indian Penal Code, that is to say :—

- (1). Giving or fabricating false evidence in such manner as to be punishable under Section 193 of the Indian Penal Code.
- (2). Giving or fabricating false evidence with intent to procure conviction of a capital offence, as defined in Section 194 of the said Code.
- (3). Giving or fabricating false evidence with intent to procure conviction of an offence punishable with transportation or imprisonment, as defined in Section 195 of the said Code.
- (4). Falsely charging any person with having committed an unnatural offence, as defined in Sections 211 and 377 of the said Code.
- (5). Assaulting or using criminal force to any woman with intent to outrage her modesty, as defined in Section 354 of the said Code.
- (6). Rape, as defined in Section 375 of the said Code.

(7). Unnatural offences, as defined in Section 377 of the said Code.

(8). Robbery or dacoity, as defined in Sections 390 and 391 of the said Code.

(9). Attempting to commit robbery, as defined in Section 393 of the said Code.

(10). Voluntarily causing hurt in committing robbery, as defined in Section 394 of the said Code.

(11). Habitually receiving or dealing in stolen property, as defined in Section 413 of the said Code.

(12). Forgery, as defined in Section 463 of the said Code.

(13). Forgery of a document, as defined in Section 466 of the said Code.

(14). Forgery of a document, as defined in Section 467 of the said Code.

(15). Forgery for the purpose of cheating, as defined in Section 468 of the said Code.

(16). Forgery for the purpose of harming the reputation of any person as defined in Section 469 of the said Code.

(17). Lurking house-trespass, or house-breaking, as defined in Sections 443 and 445 of the said Code, in order to the committing of any offence punishable with whipping under this section.

(18). Lurking house-trespass by night or house-breaking by night, as defined in Sections 444 and 446 of the said Code, in order to the committing of any offence punishable with whipping under this section.

5. Any juvenile offender who commits any offence which is not by the

Juvenile offender punishable with whipping for offences not punishable with death.

Indian Penal Code punishable with death, may, whether for a first or any other offence, be punished with whipping in lieu of any other punishment to which he may for such offence be liable under the said Code.

6. Whenever any Local Government shall by notification in the official

When offence specified in Section 4 may be punished with whipping in frontier districts and wild tracts.

Gazette have declared the provisions of this section to be in force in any frontier district or any wild tract of country within the jurisdiction of such Local

Government, any person who shall in such district or tract of country after such notification as aforesaid commit any of the offences specified in Section 4 of this Act, may be punished with whipping in lieu of any other punishment to which he may be liable under the Indian Penal Code.

7. *Repealed by Act X of 1882.*

8. *Repealed by Act X of 1872.*

9. 10. *Repealed by Act XVI of 1874.*

11. 12. *Repealed by Act X of 1872.*

NOTES.—(a). This Act is declared to be in force throughout the whole of British India, except the Scheduled Districts, by Act XV of 1874. It is also declared to be in force in certain of the Scheduled Districts of the Punjab (*vide* Notes (a) and (b) to Act XIV of 1874).

(b). All Superintendents of Jails are invested with the powers of a Magistrate of the third class with a view to sentences of whipping being executed in their presence.—(*Notification No. 314, dated 27th January 1873—Punjab Gazette of 6th February 1873*).

(c). Whipping is authorized in lieu of fine and imprisonment for offences punishable under Section 14 of Act III of 1880.

(d). See Judicial Circular No. LXII, where the instructions on the subject of whipping are collected and consolidated.

ACT No. VIII of 1864.*(Passed on the 2nd March 1864).*

An Act to enable the "Comptoir D'Escompte of Paris" to sue and be sued in the name of the Chief Manager of the Indian agencies of the said Company.

Whereas certain persons have formed themselves into a company at Paris for the transaction of banking business under the name of the "Comptoir D'Escompte of Paris," and whereas the said company is constituted and established under and by virtue of various imperial decrees of the Government, notarial acts, and articles of agreement, whereby it is provided (amongst other things) that the said company may continue to exist and carry on business for a term of thirty years from the eighteenth day of March 1857, that the shareholders of the company shall be responsible only to the amount of their shares respectively, that the rights and liabilities attached to each share shall follow its transmission into whatever hands it may pass, and that the company may establish, on its own responsibility, and with the authority of the Minister of Finance, agencies in France and in French or foreign colonies, such agencies to be organized and conducted in the same manner as the Comptoir D'Escompte itself: and whereas agencies of the said Company have been recently established in Calcutta and in Bombay: and whereas on the thirtieth day of April 1862, a convention was concluded and signed at Paris between Her Majesty the Queen of Great Britain and Ireland and His Majesty the Emperor of the French, comprising the following articles, that is to say, "First—The high contracting parties declare that they mutually grant to all companies and other associations, commercial, industrial, or financial, constituted and authorized in conformity with the laws in force in either of the two countries, the power of exercising all their rights, and of appearing before the tribunals, whether for the purpose of bringing an action or for defending the same, throughout the dominions and possessions of the other power, subject to the sole condition of conforming to the laws of such dominions and possessions. Second—It is agreed that the stipulations of the preceding article shall apply as well to companies and associations constituted and authorized previously to the signature of the present convention as to those which may subsequently be so constituted and authorized. Third—The present convention is concluded without limit as to duration. Either of the high powers shall, however, be at liberty to terminate it by giving to the other a year's previous notice. The two high powers moreover reserve to themselves the power to introduce into the convention, by common consent, any modifications which experience may show to be desirable;" and whereas it is desirable that effect should be given to the said convention so far as the Comptoir D'Escompte and its agencies now or hereafter established are concerned; It is enacted as follows:—

1. Unless the contrary appears from the context, in construing this "British India." Act, the words "British India" denote the territories which are or may become vested in Her Majesty the Queen by the Statute 21 and 22 Vict., Ch. 106, entitled "*an Act for the better Government of India*," except the settlement of Prince of Wales Island, Singapore, and Malacca.

Words importing the singular number include the plural number, and words importing the plural number include the singular number.

Gender.

Words importing the masculine gender include females.

" Person. "

The word " person " includes any company or association, or body of persons, whether incorporated or not.

2. From and after the passing of this Act, all suits and other proceed-

All suits and proceedings by, or on behalf of or against, the Comptoir D'Escompte shall be instituted in the name of, or against the chief manager for the time being of the agencies in British India, as the nominal plaintiff or defendant, and shall not abate, &c. on death or removal of such manager.

ings whatsoever, for any injury or wrong done to any real or personal property of the said Comptoir D'Escompte, in whomsoever the same may for the time being be vested, whether in the said company, or in some person or persons in trust for the said company, or upon or in respect of any present liability to the said Comptoir D'Escompte, or upon any bonds, covenants, contracts, or agreements which already have been or hereafter shall be given to or entered into with the said company, or to or with any person whomsoever in trust for the said Comptoir D'Escompte, or wherein the said Comptoir D'Escompte is or shall be interested, and also all instruments and petitions to found any adjudication of insolvency in any Court against any person indebted to the said Comptoir D'Escompte, and liable to have been made insolvent by the laws now or at any time hereafter in force relating to insolvents in British India, and generally all other proceedings whatsoever to be commenced or carried on, by or on behalf of the said Comptoir D'Escompte, or wherein the said Comptoir D'Escompte is or shall be interested against any person, whether such person is or shall then be a shareholder or partner of or in the said Comptoir D'Escompte or not, shall and lawfully may be commenced and prosecuted in the name of the person who shall be the chief manager of the agencies in British India of the said Comptoir D'Escompte, at the time such suit or proceeding shall be commenced, as the nominal plaintiff or petitioner for or on behalf of the said Comptoir D'Escompte, and all suits and proceedings, as well for subsisting as future accruing claims, debts, or demands to be commenced against the said Comptoir D'Escompte by any person, whether such person is or shall then be a shareholder or partner of or in the said Comptoir D'Escompte or not, shall be commenced and prosecuted against the said chief manager for the time being, as the nominal defendant or respondent for and on behalf of the said Comptoir D'Escompte, and the death, removal, resignation or any other act of such chief manager, or his bankruptcy or insolvency, shall not abate or prejudice any suit or other proceeding commenced under this Act, but the same may be continued, prosecuted and carried on or defended in the name of any other chief manager for the time being of the said agencies.

NOTE.—" In Sections 2, 3, 4, 5, 12, and 13, the expressions " chief manager of the agencies in British India of the said Comptoir D'Escompte, " and " chief manager " shall be taken to include any person for the time being acting as chief manager of the said agencies or being or acting as manager of such one of the same agencies as may be situate within the jurisdiction of the Court."—(Act IX of 1867, Section 1).

3. From and after the passing of this Act, in all criminal proceedings

In criminal proceedings property whether vested in Comptoir D'Escompte or trustees, may be described as property of Comptoir or of chief manager.

instituted or carried on by or on behalf of the said Comptoir D'Escompte for fraud or injury upon or against the said Comptoir D'Escompte, or for any offence whatever relating to any money, notes, bills, effects, securities, or any real or personal property of the said Comptoir D'Escompte, or for any other

offence against the said Comptoir D'Escompte, it shall be lawful to state such money, notes, bills, effects and securities, and other real and personal property, in whomsoever the same may be vested, whether in the said Comptoir D'Escompte, or in some person or persons in trust for the said Comptoir D'Escompte, to be the money, notes, bills, effects and securities, or property of the said Comptoir D'Escompte, or of the chief manager for the time being of the agencies in British India of the said Comptoir D'Escompte : and any offence committed with intent to injure or defraud the said Comptoir D'Escompte, shall and lawfully may in such proceedings be said to have been committed with intent to injure or defraud the said Comptoir D'Escompte, or such chief manager for the time being as aforesaid, and any offender may thereupon be lawfully convicted of any such offence ; and in all other proceedings in which, before the passing of this Act, it would have been necessary to state the names of the persons composing the said Comptoir D'Escompte, it shall be lawful and sufficient to state the name of such chief manager ; and the death, resignation, or removal of such chief manager shall not abate or render defective, or in any wise affect or prejudice such criminal proceedings.

4. No suit which may be commenced in any Court in British India against the said Comptoir D'Escompte or the chief manager for the time being of the agencies in British India of the said Comptoir D'Escompte, upon or arising out of any contract entered into by or on behalf of the said Comptoir D'Escompte, shall be in any wise affected or defeated by reason of the plaintiff therein, or of any other person who may be in any wise interested in such action, being a shareholder or partner of or in the said Comptoir D'Escompte ; but any shareholder or partner of or in the said Comptoir D'Escompte shall have the same right of action and remedy to be proceeded in and enforced in the same manner against the said Comptoir D'Escompte, or such chief manager for the time being as aforesaid, upon any contract, and for any debt, damage or demand whatsoever, which he might have had if he had been a stranger, and not a shareholder or partner of or in the said Comptoir D'Escompte.

5. No suit commenced by or on behalf of the said Comptoir D'Escompte in the name of the chief manager for the time being as aforesaid by virtue of this Act, upon or arising out of any contract whatsoever, entered into by or on behalf of the said Comptoir D'Escompte or for the recovery of any debt, damage, or demand whatsoever due or owing to the said Comptoir D'Escompte, or for any other cause or any other account, shall be in any wise affected or defeated by or by reason of the defendant therein, or any person or persons who may be in any wise interested in such suit, being a shareholder or partner of or in the said Comptoir D'Escompte, but the said Comptoir D'Escompte shall and may have the same right of suit and remedy to be proceeded in and enforced in the same manner against any shareholder or partner of or in the said Comptoir D'Escompte, either alone or jointly with any other person, upon any contract, and upon and for any debt, damage, or demand whatsoever, which the said Comptoir D'Escompte might have had if such cause of action had arisen with a stranger, and not with a shareholder or partner of or in the said Comptoir D'Escompte.

6. The chief manager of the agencies in British India of the said Comptoir D'Escompte shall have an office for the transaction of the business of the Comptoir D'Escompte. He shall cause a memorial, in the form and to the effect set forth in the Schedule (A) to this Act annexed, or as near thereto as the circumstances of the case will admit of, verified by a declaration in writing made by him before a Judge of the High Court of Judicature within the jurisdiction of which his office is situated, to be enrolled amongst the records of the said High Court. Such memorial shall, prior to being enrolled, be signed by the said chief manager, and shall be accompanied by or have annexed thereto, or endorsed thereon, copies of the decrees, notarial acts, articles, and other instruments under which the company is established, and copies of the various rules under which the business of the company is conducted. The memorial shall set forth the situation of the office of the chief manager and of every other office and place in British India in or at which the business of the Comptoir D'Escompte is carried on; and it shall contain a statement of the amount both of the nominal and of the paid-up capital, the number of shares into which the capital is divided, the amount of each share, and the amount of capital (if any) which the Comptoir D'Escompte shall have set aside for their working capital in British India, and if the last mentioned capital be other than money then a statement of how it stands invested, and in whose name.
7. No memorial shall be enrolled unless the authority of the chief manager by whom it is signed, and the copies of the decrees, acts, deeds, and other documents accompanying the memorial shall be authenticated by the signature and seal of the French Financial Minister, and countersigned by Her Britannic Majesty's Consul General in Paris for the time being.
8. Whenever any new chief manager of the agencies in British India of the said company shall be appointed, or any change in or addition to any of the facts stated in any memorial which may have been enrolled shall take place, a like memorial in the form and to the effect set forth in the Schedule (B) to this Act annexed, verified as aforesaid, shall, within twelve calendar months after such appointment, change, or addition shall have been made, be enrolled as aforesaid specifying the name and description of such new chief manager, and containing a statement of the change or addition which may have taken place in the facts aforesaid.
9. If any declaration, made for the purpose of verifying a memorial under this Act, shall be false or untrue in any material particular, the person wilfully making such declaration shall be guilty of an offence within the meaning of Section 199 of the Indian Penal Code.
10. Until such memorial as first hereinbefore mentioned shall have been duly verified and enrolled, no action or suit shall be brought by the said Comptoir D'Escompte under the authority of this Act; and until the memorial by this Act required to be verified and enrolled in the event of the appointment of a new chief manager of the agencies in British India of the said Comptoir D'Escompte, shall have been duly verified and enrolled, the person whose name shall appear in the last memorial which shall have been

duly verified and enrolled, shall be liable to all such suits and executions upon judgment or decree and other proceedings under this Act, and in the same manner, as if he had not ceased to be such chief manager, and as if no new chief manager had been appointed.

11. An examined copy of every memorial enrolled pursuant to this Act, certified to be a true copy by and under the proof of contents of hand and signature of a Registrar for the time being of the High Court of Judicature in which the same shall have been enrolled, shall be received in evidence as proof of the contents of such memorial: and proof shall not be required that the person by whom the memorial purports to be verified was, at the time of such verification, chief manager as aforesaid of the said agencies.

12. Execution on every judgment, decree, and order made or pronounced in any suit or proceeding in any Court in British India against the chief manager for the time being as aforesaid, shall and may be issued and enforced against any property in British India belonging to the Comptoir D'Escompte. All the provisions of the Code of Civil Procedure as to the attachment of property before judgment and after judgment, shall in all suits against the chief manager have full force and effect as regards property in British India belonging to the Comptoir D'Escompte. So long as the full amount recoverable by any person under any judgment, decree, or order shall not have been recovered, no execution issued from any Court in British India, nor anything in this Act, shall in any way prejudice or injure the right of such person to proceed in France, under the privileges and powers reserved to British subjects by and under the said convention of the thirtieth of April 1862, for the recovery of the amount unrecovered.

13. No person having or claiming to have any demand upon or against the said Comptoir D'Escompte shall, when the same has been so determined as to have been pleadable in bar against such person, bring more than one suit in respect of such demand; and the proceedings in any suit which may have been brought against the chief manager for the time being of the agencies in British India of the said Comptoir D'Escompte under the authority of this Act, if so determined may be pleaded in bar of any suit in any Court in British India, for the same cause against any other such chief manager, and in case of any demand which the said Comptoir D'Escompte now has or hereafter may have upon or against any person, whether a shareholder of the said Comptoir D'Escompte or not, and which shall have been determined in any action or suit commenced or prosecuted by the chief manager for the time being, the proceedings in such suit may be pleaded in bar of any other suit, in any such Court as aforesaid, for the same demand, which may be commenced or prosecuted by the same or any other such chief manager as aforesaid.

NOTE.—Act IX of 1867 is to be read with and taken as part of this Act.

SCHEDULE (A).

Referred to in Section 6 of this Act.

Memorial made the _____ day of _____ by the Chief Manager of the agencies in British India of the Comptoir D'Escompte of Paris pursuant to Act VIII of 1864 of the Governor-General of India in Council, intituled "An Act to enable the Comptoir D'Escompte

"of Paris to sue and be sued in the name of the Chief Manager of the Indian agencies of the said Company," setting forth the particulars prescribed by Section 6 of the said Act.

Situation of office of Chief Manager	...	...	...	...	...
Situation of other offices and places in British India	...	...	...	...	...
Entire nominal capital of the company	...	...	...	...	...
Paid-up capital	...	...	...	...	...
Number of shares	...	...	...	...	...
Amount of each share	...	...	...	...	...
Amount of capital set aside for operations in British India	...	...	...	...	...
Mode in which the same is invested	...	...	...	...	...

I, A. B., Chief Manager of the agencies in British India of the Comptoir D'Escompte of Paris, do solemnly and sincerely declare, to the best of my knowledge and belief, that the above written memorial is true in all respects.

(Signed) A. B.

Declared, &c., before me, a Judge of the High Court of Judicature at

SCHEDULE (B)

Referred to in Section 6 of this Act.

Memorial made the _____ day of _____ by the Chief Manager of the agencies in British India of the Comptoir D'Escompte of Paris, pursuant to Act VIII of 1864 of the Governor-General of India in Council, intitled "*An Act to enable the Comptoir D'Escompte, &c.,*" (as in foregoing) setting forth particulars of change or changes as prescribed by Section 6 of the said Act.

Name and description of new Chief Manager	...	...	...	...	...
New situation of office of Chief Manager	...	...	...	...	...
Other change	...	...	...	...	...

I, C. D., Chief Manager of the agencies in British India of the Comptoir D'Escompte of Paris, do solemnly and sincerely declare, to the best of my knowledge and belief, that the above written memorial is true in all respects.

(Signed) C. D.

Declared before me, &c., &c., (as before).

Act No. XV of 1864.

(Passed on the 24th March 1864).

An Act to amend Act VIII of 1851 (for enabling Government to levy tolls on Public Roads and Bridges).

Whereas by Act VIII of 1851 (*for enabling Government to levy tolls on Public Roads and Bridges*) authority was given for the levy of certain rates of toll, not exceeding the rates mentioned in the schedule annexed to that Act; and whereas it is expedient to make certain alterations in respect to the rates in the said schedule mentioned; It is enacted as follows:—

1. In any place to which this Act shall be extended by the Local Government, the schedule to the said Act VIII of 1851 repealed, and another schedule substituted. 1851 shall be of no effect except as to any proceedings pending at the time at which this Act shall be so extended, and except as to any rate of toll levied theretofore: and all the

provisions of the said Act, applicable or referring to the rates of toll mentioned in the said schedule, shall be applicable and refer to the rates of toll mentioned in the schedule to this Act annexed, which shall be read with and taken as part of the said Act VIII of 1851.

2. Any person entrusted with the management of the collection of tolls

Collectors of tolls may compound for tolls leviable under Act VIII of 1851 or this Act.

under Act VIII of 1851, may in his discretion compound for any period not exceeding one year with any person for a certain sum to be paid by such person for himself or for any vehicle or animal kept by him, in lieu of the rates of toll specified in the schedule to the said Act VIII of 1851 or in the schedule to this Act.

3. The Local Government may extend this Act to any place in which

This Act where to have operation.

the said Act VIII of 1851 is in force; and the Local Government of any place in which the said Act VIII of 1851 is not in force may extend the said Act VIII of 1851 and this Act to such place.

NOTE.—See notes to Act VIII of 1851, ante pp. 44—48.

4. For the purposes of this Act, the words “Local Government” shall

“Local Government.”

denote the person authorized by law to administer the executive Government in any part of the territories vested in Her Majesty by the Statute 21 and 22 Vic., cap. 106, entitled “An Act for the better Government of India.”

SCHEDULE.

	Rs.	A.	P.
On every four-wheeled carriage	2	0	0
On every two-wheeled carriage	1	0	0
On every ekka	0	4	0
On every hackery on springs	0	2	0
On every cart and hackery not on springs drawn by 8 bullocks, buffaloes, horses, ponies, asses, or mules, if laden	1	8	0
Ditto, if not laden	0	8	0
On every cart or hackery drawn by 6 bullocks, buffaloes, horses, ponies, asses, or mules, if laden	0	12	0
Ditto, if not laden	0	6	0
On every cart or hackery drawn by 4 bullocks, buffaloes, horses, ponies, asses, or mules, if laden	0	8	0
Ditto, if not laden	0	4	0
On every cart and hackery drawn by 2 bullocks, buffaloes, horses, ponies, asses, or mules, if laden	0	4	0
Ditto, if not laden	0	2	0
Buffaloes or bullocks, per head, if laden	0	1	0
Ditto, if not laden	0	0	6
On every elephant	1	8	0
On every camel, if laden	0	8	0

	Rs.	A.	P.
On every camel, if not laden ...	0	4	0
On every horse, if laden or ridden ...	0	1	6
Ditto, unladen or led...	0	0	9
On every tattoo or mule, if laden or ridden	0	0	9
Ditto, ditto unladen or led	0	0	6
On every ass, if laden or ridden ...	0	0	6
Ditto, unladen or led ...	0	0	3
On every sheep, or goat or pig ...	0	0	1
On every palankeen, dooly, palna, or tonjon with 8 bearers ...	1	0	0
Ditto with 6 bearers ...	0	12	0
Ditto with 4 bearers ...	0	8	0
Ditto with 2 bearers ...	0	4	0
On every foot passenger ...	0	0	3

N. B.—Animals drawing any vehicle for which toll can be demanded are not to be also charged with toll.

NOTE.—This Act has been declared to be in force in certain of the Scheduled Districts of the Punjab (*vide* Notes (a) and (b) to Act XIV of 1874).

ACT No. XVII of 1864.

(Passed on the 24th March 1864).

An Act to constitute an office of Official Trustee.

Whereas it is expedient to amend the law relating to official trustees, and to constitute an office of official trustee; It is enacted as follows:—

Preamble.

1. The following words and expressions in this Act shall have the meanings hereby assigned to them unless there be something in the context repugnant to such construction, that is to say:—

Interpretation.

The expression "High Court" shall mean Her Majesty's High Courts of Judicature at Fort William in Bengal, Fort St. George, and Bombay respectively in the exercise of their original civil jurisdiction.

"High Court."

The expression "Chief Justice" shall mean the Chief Justice or acting Chief Justice for the time being of any of the said High Courts.

"Chief Justice."

"Person."

The word "person" shall include a corporation.

Words importing the singular number shall include the plural, and words importing the plural number shall include the singular.

Number.

Gender.

Words importing the masculine gender shall include females.

2. *Repealed by Act XIV of 1870.*

Official trustee under Act XVII of 1843 to act as if appointed under this Act, save as regards remuneration.

3. Every official trustee appointed under Act XVII of 1843 shall, save as regards the remuneration to be received by him, hold and execute the trusts of which he is trustee in all respects as if he were an official trustee appointed under this Act.

4. In each of the presidencies of Fort William in Bengal, Fort St. George, and Bombay, there shall be an official trustee. The said official trustee shall be called the official trustee of Bengal, the official trustee of Madras, and the official trustee of Bombay respectively.

Appointment, suspension and removal of official trustees.

5. Every official trustee appointed under this Act shall be appointed and may be suspended or removed from his office by the authorities hereinafter named, that is to say—

The official trustee of Bengal by the Chief Justice of Her Majesty's High Court of Judicature at Fort William in Bengal.

The official trustee of Madras by the Chief Justice of Her Majesty's High Court of Judicature at Fort St. George.

The official trustee of Bombay by the Chief Justice of Her Majesty's High Court of Judicature at Bombay.

6. The Administrator General or Officiating Administrator General for the time being of any of the said presidencies shall be eligible for the office of official trustee of that presidency. Every official trustee appointed under this Act shall give security for the due execution of the duties of his office in such manner and to such amount as the Chief Justice by whom he is appointed shall direct.

7. It shall be lawful for the Chief Justice of the High Court at any of the presidencies from time to time to grant leave of absence to the official trustee of that presidency, but subject always to such and the like rules as may be for the time being in force as to leave of absence of the officers attached to such High Court. Whenever any official trustee shall obtain leave of absence, it shall be lawful for the Chief Justice to appoint some person to officiate as official trustee, and such person while officiating shall be subject to the same conditions and be bound by the same responsibilities as the official trustee, and he shall be deemed to be the official trustee for the time being under this Act, and shall be liable to give security for the due execution of the duties of his office in like manner as if he had been appointed official trustee.

8. If any person shall be about to grant, assign, or settle any property, moveable or immovable, of what nature or kind soever, upon or subject to any trust, whether for a charitable purpose or otherwise, it shall be lawful for such person, with the consent of the official trustee, to appoint him, by the deed creating the trust, to be the trustee of

Official trustee may, with his consent, be appointed trustee of a settlement by grantor, &c.

such settlement; and upon such appointment the property so granted assigned, or settled shall vest in such officer and his successors in office, and shall be held by him and them upon the trust declared and contained in the said deed. Provided always that the consent of the official trustee shall be recited in the said deed, and that the deed shall be duly executed by the official trustee: provided also that no trust for any religious purpose shall ever be held by the official trustee, under this or under any other section of this Act.

Official trustee appointed under last preceding section to receive only the remuneration specified in the deed.

9. Every official trustee appointed trustee of any property under the last preceding section, shall be entitled to receive by way of remuneration in that behalf such sum or sums only as he shall by the deed of settlement be declared to be entitled to receive.

10. If any property is subject to a trust, whether for a charitable purpose or otherwise, and there shall be no trustee willing to act or capable of acting in the trusts thereof, who is within the local limits of the ordinary or extraordinary original civil jurisdiction of the High Court, or if property is subject to a trust, and all the trustees, or the surviving or continuing trustee, and all the persons beneficially interested in the said trust, shall be desirous that the official trustee shall be appointed in the room of such trustees or trustee, then and in any such case it shall be lawful for the High Court on petition, and with the consent of the official trustee, to appoint the official trustee to be the trustee of such property: and upon such appointment such property shall vest in the official trustee and his successors in office, and shall be held by him and them upon the same trusts as the same were held previous to such appointment.

11. The official trustee shall be entitled by way of remuneration, in respect of all trust property transferred to him under the last preceding section, to a commission the rate of which shall be as follows, that is to say,—

Rate of commission under last preceding section.

On all capital monies received by him, a commission of one half per cent. on receiving the same.

On all capital monies invested by him, a commission of one half per cent. on investing the same.

On all sums received by him by way of interest or dividends in respect of monies invested, a commission of three quarters per cent.

On all rents collected by him, a commission of two and a half per cent.

12. The official trustee shall defray all the expenses of the establishment necessary for his office, including the provision of office accommodation, together with all other charges to which the said office shall be subject, except those for which express provision is made by this Act, and except those costs of litigation and the like which a trustee would, under ordinary circumstances, be entitled to pay for out of the trust monies in his hand. The commission to which the official trustee shall be entitled, is intended to cover all the expenses and risk and responsibility of management, collection and distribution.

What expenses, &c., commission to cover.

In all cases official trustee to be sole trustee.

13. It shall in no case be lawful to appoint the official trustee to be a trustee along with any other person : but the official trustee shall always be sole trustee.

14. The official trustee shall cause all capital monies received by him to be invested in Government securities, or otherwise as the Court shall direct ; and if in any case the trust funds or any part of them shall at the time of their vesting in the official trustee be invested otherwise than as provided in the deed or will creating the trust or [than as ordered by the Court, it shall be the duty of the official trustee, as soon as he reasonably can, to realize the funds so improperly invested and to invest the same in Government securities or otherwise as the Court shall direct.

15. The High Court may make any such orders as shall seem to it necessary respecting any trust property vested in the official trustee, or the interest or produce thereof. All such orders shall be made on petition unless the Court shall direct a suit to be instituted.

16. Nothing in this Act shall prevent the re-transfer of any trust property which may have become vested in the official trustee, to the original or any subsequently appointed trustee, or to such person as the Court shall direct, unless otherwise provided by the deed or will creating the trust.

17. All orders which shall be made appointing any official trustee to act as trustee in virtue of his office, shall appoint him by his name of office and shall authorize the official trustee for the time being of the same presidency to act as official trustee of the property to which such order shall relate : and all property and interests which at the time of the death, resignation, or removal from office of any official trustee shall be vested in him by virtue of such order, shall upon such death, resignation, or removal cease to be vested in him, and shall vest in his successor in office immediately upon his appointment thereto, and all books, papers, and documents kept by such official trustee by virtue of his office shall be transferred too and vested in his successor in office.

18. All actions, suits, or other proceedings which shall be commenced by or against any official trustee in his official character, may be brought by or against him by his name of office, and no suit, action, or other proceeding already commenced or which shall be commenced by or against any person as official trustee either alone or jointly with any other person, shall abate by reason of the death, resignation, or removal from office of any such official trustee, but the same may by order of the Court and upon such terms as to the service of notices or otherwise as the Court may direct, be continued against his successor immediately upon his appointment, in the same manner as if no such death, resignation, or removal had occurred. Provided that nothing herein contained shall render any such successor personally liable for any costs incurred prior to the order for continuing the action or suit against him, or shall release an official trustee who has resigned or been removed from his office, or the heirs, executors, administrators, or representatives of a deceased official trustee from being liable for any such costs.

Proviso.

19. Every official trustee appointed under this Act shall enter into

Official trustee to keep a separate account of each trust, to be open to the inspection of the Chief Justice and of any person authorized by him to demand inspection.

books, to be kept by him for that purpose, separate and distinct accounts of each trust of which he is the trustee, and of all such sums of money and securities for money, goods, and things, as shall come to his hands, or to the hands of any person employed by him, or in trust for him, under this Act, and likewise of all payments made by him on account of such trust, and of all debts by or to the same, specifying the dates of such receipts and payments respectively, which said books shall be kept in the official trustee's office, and shall be at all times open for the inspection of the Chief Justice and of any person authorized by him to demand inspection thereof.

20. The Chief Justice shall have power from time to time to make

Chief Justice may make and alter rules and orders for custody of trust funds, &c.

and alter any general rules and orders consistently with the provisions of this Act, for the safe custody of the trust funds and securities which shall come to the hands or possession of the official trustee, and for the remittance to Europe or elsewhere of all sums of money which shall be payable or belong to persons resident in Europe or elsewhere, or in other cases where such remittances shall be required, and generally for the guidance and government of the official trustee in the discharge of his duties; and may by such rules and orders, amongst other things, direct what books, accounts, and statements in addition to those mentioned in this Act, shall be kept by the official trustee, and in what form the same shall be kept, and what entries the same shall contain, and where the same shall be kept, and where and how the funds and securities and other the property belonging to the trust of which the official trustee is the trustee shall be kept or invested or deposited, and how any remittances thereof shall be made.

21. Such orders shall be published in the official Gazette, and it shall

Publication of orders, &c.

be the duty of the several official trustees to obey and fulfil the same, and the same shall be a full authority and indemnity for all persons acting in pursuance thereof.

22. The official trustee of each of the said presidencies shall once in

Official trustee to furnish annual schedules which shall be filed in the High Court.

every year, that is to say, on the first day of March, or on such other day as the Chief Justice shall direct, deliver to the Chief Justice a true schedule showing the gross amount of all sums of money received or paid by him on account of each trust of which he is the trustee, and the balances during the year ending on the thirty-first day of December next before the day of delivering such schedule, and a true list of all securities received on account of each of the said trusts during the same period; and also a true schedule of all trusts which shall have come to an end or of which the official trustee shall have ceased to be the trustee and the property subject to which shall have been paid or made over to the persons entitled to the same or to new trustees during the same period, specifying the nature and amount or value of such property and the persons to whom paid or made over. The Chief Justice shall cause the said schedules to be filed as record in the High Court; but it shall not be lawful for any person to inspect the same or to make copies thereof or of any part thereof, except on an order granted by the Chief Justice permitting him so to do.

23. The Chief Justice shall from time to time appoint an auditor or auditors to examine the accounts of the official trustee at the time of the delivery of the said schedules and also at any other time when the Chief Justice shall think fit.

Chief Justice to appoint auditors.

24. The auditor or auditors shall examine the schedules and accounts, and report to the Chief Justice whether they contain a full and true account of everything which ought to be inserted therein, and whether the books which by this Act are, or which by any such general rules and orders as aforesaid shall be directed to be kept by the official trustee, have been duly and regularly kept, and whether the trust funds and securities have been duly kept and invested and deposited in the manner prescribed by this Act or which shall be prescribed by any such rules and orders to be made as aforesaid.

Auditors to examine schedules and accounts of official trustee and to report to Chief Justice.

25. Every auditor shall have power to summon as well the official trustee as any other person or persons whose presence he may think necessary, to attend him from time to time; and to examine the official trustee or other party or parties, if he shall think fit, on oath or solemn affirmation to be by him administered; and to call for all books, papers, vouchers and documents, which shall appear to him to be necessary for the purposes of the said reference; and if the official trustee or other person or persons when summoned shall refuse, or, without reasonable cause, neglect to attend or to produce any book, paper, voucher, or document required, or shall attend and refuse to be sworn or make a solemn affirmation, when by law an affirmation may be substituted for an oath, or shall refuse to be examined, the auditor or auditors shall certify such neglect or refusal in writing to the High Court, and every person so refusing or neglecting shall thereupon be punishable, in like manner as if such refusal or neglect had been in contempt of the said High Court.

Auditor to have power to summon witnesses and to call for books, &c.

Penalty for refusal or neglect to attend, &c., to produce books, &c.

26. The costs and expenses of preparing the said schedules and accounts, and of every such reference and examination as aforesaid, shall be defrayed by all the trust estates to which such schedules or accounts shall relate, which costs and expenses, and the portion thereof to be contributed by each of the said trust estates, shall be ascertained and settled by the auditor or auditors, subject to the approval of the Chief Justice, and shall be paid out of the said estates accordingly by the official trustee.

Costs of preparing schedules, &c., how to be paid.

27. If upon any such reference and examination the auditor or auditors shall see reason to believe that the said schedules do not contain a true and correct account of the matters therein contained, or which ought to be therein contained, or that the trust funds and securities have not been duly kept and invested or deposited in the manner directed by this Act, or which shall be directed by any such rules and orders as aforesaid, or that the official trustee has failed to comply with the provisions and directions of this Act, or of any such rules and orders, he or they shall report accordingly to the Chief Justice.

Matters to be reported by auditors.

28. The Chief Justice may refer every such report as last aforesaid to the consideration of the Advocate General for the presidency, who shall thereupon, if he shall think fit, proceed summarily against the defaulter or his per-

Proceedings upon such report.

sonal representative in the High Court by petition for an account, or to compel obedience to this Act or to such rules and orders as aforesaid, or otherwise as he may think fit, in respect of all or any of the trust estates then or formerly under the charge of such defaulter; and the Court shall have power, upon any such petition, to compel the attendance in Court of the defendant or defendants, and any witnesses who may be thought necessary, and to examine them orally or otherwise as the said Court shall think fit, and to make and enforce such order or orders as the Court shall think just.

29. The costs, including those of the Advocate General, and of the reference to him, if the same shall be directed by the Court to be paid, shall be defrayed either by the defendant or defendants or out of the trust estates rateably as the said Court shall direct; and whenever any costs shall be recovered from the defendant or defendants, the same shall be repaid to the estates by which the same shall have been in the first instance contributed, and the Court shall have power to order the official trustee or other person or persons, defendants, to receive his or her costs out of the said estates, if it shall think fit.

Orders of the High Court to have same effect, and to be executed in the same manner, as decrees.

30. Any orders which shall be made by any of the said High Courts shall have the same effect and be executed in the same manner as decrees.

31. Any order under this Act may be made on the application of any person beneficially interested in any trust property, or of any trustee thereof, whether under disability or not.

Who may apply for order under this Act.

32. If any infant or lunatic shall be entitled to any gift or legacy or residue or share thereof, it shall be lawful for the executor or administrator by whom such legacy, residue or share may be payable or transferable, or the party by whom such gift may be made, or any trustee of such gift, legacy, residue, or share, to pay or transfer the same to the official trustee appointed under this Act; provided that the leave of the High Court to make such payment or transfer shall be first obtained by motion made on petition. Any money or property paid or transferred to the official trustee or vested in him under this section shall be subject to the same provisions as are contained in this Act as to other property vested in such official trustee under the provisions thereof.

NOTE.—Although under this Act the official trustee is an officer of the High Courts at the presidency towns, the property vested in him may be, and the beneficiaries may reside, anywhere in India.

ACT No. III of 1865.

(Passed on the 14th February 1865),

An Act relating to the rights and liabilities of Common Carriers.

WHEREAS it is expedient not only to enable common carriers to limit their liability for loss of or damage to property delivered to them to be carried, but also to declare their liability for loss of or damage to such property occasioned by the negligence or criminal acts of themselves, their servants or agents; It is enacted as follows:—

Preamble.

- Short title. 1. This Act may be cited as "The Carriers Act, 1865."
- Interpretation clause. 2. In this Act, unless there be something repugnant in the subject or context—
- "Common Carrier" denotes a person, other than the Government, engaged in the business of transporting for hire property from place to place, by land or inland navigation, for all persons indiscriminately.
- "Common Carrier." "Person" includes any association or body of persons, whether incorporated or not.
- "Person." Words in the singular number include the plural, and words in the plural include the singular.
- Number. 3. No common carrier shall be liable for the loss of or damage to property delivered to him to be carried exceeding in value one hundred rupees and of the description contained in the schedule to this Act, unless the person delivering such property to be carried, or some person duly authorized in that behalf, shall have expressly declared to such carrier or his agent the value and description thereof.
- Carriers not to be liable for loss of certain goods above 100 rupees in value, unless delivered as such.
4. Every such carrier may require payment for the risk undertaken in carrying property exceeding in value one hundred rupees and of the description aforesaid, at such rate of charge as he may fix: Provided that, to entitle such carrier to payment at a rate higher than his ordinary rate of charge, he shall have caused to be exhibited in the place where he carries on the business of receiving property to be carried, notice of the higher rate of charge required, printed or written in English and in the vernacular language of the country wherein he carries on such business.
- For carrying such property, payment may be required at rates fixed by carrier.
- Proviso.
5. In case of the loss of or damage to property exceeding in value one hundred rupees and of the description aforesaid, delivered to such carrier to be carried, when the value and description thereof shall have been declared and payment shall have been required in manner provided for by this Act, the person entitled to recover in respect of such loss or damage shall also be entitled to recover any money actually paid to such carrier in consideration of such risk as aforesaid.
- The person entitled to recover in respect of property lost or damaged may also recover money paid for its carriage.
6. The liability of any common carrier for the loss of or damage to any property delivered to him to be carried, not being of the description contained in the schedule to this Act, shall not be deemed to be limited or affected by any public notice; but any such carrier, not being the owner of a railroad or tramroad constructed under the provisions of Act XXII of 1863 (to provide for taking land for works of public utility to be constructed by private persons or Companies, and for regulating the construction and use of works on land so taken) may, by special contract, signed by the owner of such property so delivered as last aforesaid or by some person duly authorized in that behalf by such owner, limit his liability in respect of the same.
- In respect of what property liability of carrier not limited or affected by public notice.
- Carriers, with certain exceptions, may limit liability by special contract.

NOTE.—Act XXII of 1863 has been repealed by Act X of 1870, Section 2, q.

7. The liability of the owner of any railroad or tramroad constructed under the provisions of the said Act XXII of 1863,

Liability of owner of railroad or tramroad constructed under Act XXII of 1863, not limited by special contract.

for the loss of or damage to any property delivered to him to be carried, not being of the description contained in the schedule to this Act, shall not be deemed to be limited or affected by any special contract; but the owner of such railroad or tramroad shall be liable for the loss of or damage to property delivered to him to be carried only when such loss or damage shall have been caused by negligence or a criminal act on his part or on that of his agents or servants.

8. Notwithstanding anything hereinbefore contained, every common carrier shall be liable to the owner for loss of or damage to any property delivered to such carrier to be carried, where such loss or damage shall have arisen from the negligence or criminal act of the carrier or any of his agents or servants.

Common carrier liable for loss or damage caused by neglect or fraud of himself or his agent.

9. In any suit brought against a common carrier for the loss, damage, or non-delivery of goods entrusted to him for carriage, it shall not be necessary for the plaintiff to prove that such loss, damage, or non-delivery was owing to the negligence or criminal act of the carrier, his servants or agents.

Plaintiffs in suits against common carriers for loss, damage or non-delivery not required to prove negligence or criminal act.

Saving of provisions of Sections 9, 10, and 11 of Act XVIII of 1854.

10. Nothing in this Act shall affect the provisions contained in the ninth, tenth and eleventh sections of Act No. XVIII of 1854 (relating to Railways in India).

NOTES.—(a). This Act is declared to be in force throughout the whole of British India except the Scheduled Districts, by Act XV of 1874. It has also been declared to be in force in certain of the Scheduled Districts of the Punjab, but not in Lahul (*vide* Notes (a) and (b) to Act XIV of 1874).

(b). By Section 2 of Act IV of 1879, which repeals Act XVIII of 1854, nothing contained in this Act shall apply to carriers by rail.

SCHEDULE.

Gold and silver coin.

Gold and silver in a manufactured or unmanufactured state.

Precious stones and pearls.

Jewellery.

Time-pieces of any description.

Trinkets.

Bills and hundis.

Currency Notes of the Government of India, or notes of any Banks, or securities for payment of money, English or foreign.

Stamps and stamped paper.

Maps, prints, and works of Art.

Writings.

Title deeds.

Gold or silver plate or plated articles.

Glass.

China.

Silk in a manufactured or unmanufactured state, and whether wrought up or not wrought up with other materials.

Shawls and lace.

Cloths and tissues embroidered with the precious metals or of which such metals form part.

Articles of ivory, ebony or sandal wood.

ACT No. X of 1865.

(Passed on the 16th March 1865).

An Act to amend and define the Law of Intestate and Testamentary Succession in British India.

Whereas it is expedient to amend and define the rules of law applicable to intestate and testamentary succession in British India ; It is enacted as follows :—

PART I.

Preliminary.

Short title.

1. This Act may be cited as “ The Indian Succession Act, 1865.”

Act to constitute the law of British India in cases of intestate or testamentary succession.

2. Except as provided by this Act or by any other law for the time being in force, the rules herein contained shall constitute the law of British India applicable to all cases of intestate or testamentary succession.

Interpretation clause.

3. In this Act, unless there be something repugnant in the subject or context—

Words importing the singular number include the plural : words importing the plural number include the singular ; and words importing the male sex include females.

“ Person.”

“ Person” includes any company or association or body of persons, whether incorporated or not.

“ Year.”

“ Month.”

“ Year” and “ Month” respectively mean a year and month reckoned according to the British calendar.

“ Immoveable property” includes land, incorporeal tenements and things attached to the earth, or permanently fastened to anything which is attached to the earth.

“ Moveable property.”

“ Moveable property” means property of every description except immoveable property.

“ Province.”

“ Province” includes any division of British India having a Court of the last resort.

“British India” means the territories which are or may become vested in Her Majesty or her successors by the Statute 21 and 22 Vic., Cap. 106 (*An Act for the better Government of India*) other than the Settlement of Prince of Wales’ Island, Singapore, and Malacca.

“District Judge.”

“District Judge” means the Judge of a principal civil Court of original jurisdiction.

“Minor.”

“Minority.”

“Minor” means any person who shall not have completed the age of eighteen years, and “minority” means the status of such person.

NOTE.—See Act IX of 1875 as to the age of majority of persons domiciled in British India.

“Will” means the legal declaration of the intentions of the testator with respect to his property, which he desires to be carried into effect after his death.

“Will.”

“Codicil” means an instrument made in relation to a will, and explaining, altering, or adding to its dispositions. It is considered as forming an additional part of the will.

“Codicil.”

“Probate” means the copy of a will certified under the seal of a Court of competent jurisdiction, with a grant of administration to the estate of the testator.

“Probate.”

“Executor” means a person to whom the execution of the last will of a deceased person is, by the testator’s appointment, confided.

“Executor.”

“Administrator” means a person appointed by competent authority to administer the estate of a deceased person when there is no executor.

“Administrator.”

And in every part of British India to which this Act shall extend, “Local Government” shall mean the person authorized by law to administer executive government in such part; and “High Court” shall mean the highest civil Court of appeal therein, and for the purposes of Sections 242, 242 A, 246 A and 277 A shall include the Court of the Recorder of Rangoon.

“Local Government.”

“High Court.”

NOTE.—The last clause is added by Act XIII of 1875.

4. No person shall, by marriage, acquire any interest in the property of the person whom he or she marries, nor become incapable of doing any act in respect of his or her own property, which he or she could have done if unmarried.

Interests and powers not acquired nor lost by marriage.

NOTES.—(a). This section shall not apply and shall be deemed never to have applied, to any marriage, one or both of the parties to which professed, at the time of the marriage, the Hindu, Muhammadan, Buddhist, Sikh or Jaina religion.—(*Act III of 1874, Section 2*).

(b) Married women may take legal proceedings in respect of property which under this Act, or Act III of 1874, is declared to be their separate property.—(*Act III of 1874, Section 7*).

PART II.

Of Domicile.

5. Succession to the immoveable property in British India of a person deceased is regulated by the law of British India, wherever he may have had his domicile at the time of his death. Succession to the moveable property of a person deceased is regulated by the law of the country in which he had his domicile at the time of his death.

Law regulating succession to a deceased person's immoveable and moveable property, respectively.

Illustrations.

(a) A, having his domicile in British India, dies in France, leaving moveable property in France, moveable property in England, and property, both moveable and immoveable, in British India. The succession to the whole is regulated by the law of British India.

(b) A, an Englishman, having his domicile in France, dies in British India, and leaves property, both moveable and immoveable, in British India. The succession to the moveable property is regulated by the rules which govern, in France, the succession to the moveable property of an Englishman dying domiciled in France, and the succession to the immoveable property is regulated by the law of British India.

One domicile only affects succession to moveables.

6. A person can only have one domicile for the purpose of succession to his moveable property.

7. The domicile of origin of every person of legitimate birth is in the country in which at the time of the birth his father was domiciled: or, if he is a posthumous child, in the country in which his father was domiciled at the time of the father's death.

Domicile of origin of person of legitimate birth.

Illustration.

At the time of the birth of A, his father was domiciled in England. A's domicile of origin is in England, whatever may be the country in which he was born.

Domicile of origin of illegitimate child.

8. The domicile of origin of an illegitimate child is in the country in which, at the time of his birth, his mother was domiciled.

Continuance of domicile of origin.

9. The domicile of origin prevails until a new domicile has been acquired.

Acquisition of new domicile.

10. A man acquires a new domicile by taking up his fixed habitation in a country which is not that of his domicile of origin.

Explanation.—A man is not to be considered as having taken up his fixed habitation in British India merely by reason of his residing there in Her Majesty's civil or military service, or in the exercise of any profession or calling.

Illustrations.

(a) A, whose domicile of origin is in England, proceeds to British India where he settles as a barrister or a merchant, intending to reside there during the remainder of his life. His domicile is now in British India.

(b) A, whose domicile is in England, goes to Austria, and enters the Austrian service, intending to remain in that service. A has acquired a domicile in Austria.

(c) A, whose domicile of origin is in France, comes to reside in British India under an engagement with the British Indian Government for a certain number of years. It is his intention to return to France at the end of that period. He does not acquire a domicile in British India.

(d) A, whose domicile is in England, goes to reside in British India for the purpose of winding-up the affairs of a partnership which has been dissolved, and with the intention of returning to England as soon as that purpose is accomplished. He does not by such residence acquire a domicile in British India, however long the residence may last.

(e) A, having gone to reside in British India under the circumstances mentioned in the last preceding illustration, afterwards alters his intention, and takes up his fixed habitation in British India. A has acquired a domicile in British India.

(f) A, whose domicile is in the French Settlement of Chandernagore, is compelled by political events to take refuge in Calcutta, and resides in Calcutta for many years in the hope of such political changes as may enable him to return with safety to Chandernagore. He does not by such residence acquire a domicile in British India.

(g) A, having come to Calcutta under the circumstances stated in the last preceding illustration, continues to reside there after such political changes have occurred as would enable him to return with safety to Chandernagore, and he intends that his residence in Calcutta shall be permanent. A has acquired a domicile in British India.

11. Any person may acquire a domicile in British India by making and depositing in some office in British India (to be fixed by the Local Government), a declaration in writing under his hand of his desire to acquire such domicile, provided that he shall have been resident in British India for one year immediately preceding the time of his making such declaration.

NOTE.—The office of the Secretary to the Punjab Government, Lahore, has been constituted an office for the deposit of declarations by parties desirous of acquiring a domicile in British India.—(Notification No. 915, dated 22nd June, 1865—*Punjab Gazette* of 29th *idem*, page 479.)

12. A person who is appointed by the Government of one country to be its ambassador, consul or other representative in another country, does not acquire a domicile in the latter country by reason only of residing there in pursuance of his appointment; nor does any other person acquire such domicile by reason only of residing with him as part of his family or as a servant.

Continuance of new domicile.

13. A new domicile continues until the former domicile has been resumed, or another has been acquired.

Minor's domicile.

14. The domicile of a minor follows the domicile of the parent from whom he derived his domicile of origin.

Exception.—The domicile of a minor does not change with that of his parent if the minor is married or holds any office or employment in the service of Her Majesty, or has set up, with the consent of the parent, in any distinct business.

Domicile acquired by a woman on marriage.

15. By marriage a woman acquires the domicile of her husband, if she had not the same domicile before.

Wife's domicile during marriage.

16. The wife's domicile during the marriage follows the domicile of her husband.

Exception.—The wife's domicile no longer follows that of her husband if they be separated by the sentence of a competent Court, or if the husband is undergoing a sentence of transportation.

Except in cases stated, minor cannot acquire a new domicile.

17. Except in the cases above provided for, a person cannot during minority acquire a new domicile.

Lunatic's acquisition of new domicile.

18. An insane person cannot acquire a new domicile in any other way than by his domicile following the domicile of another person.

Succession to a person's moveable property in British India, in absence of proof of his domicile elsewhere.

19. If a man dies leaving moveable property in British India, in the absence of proof of any domicile elsewhere, succession to the property is regulated by the law of British India.

PART III.*

Of Consanguinity.

Kindred or consanguinity.

20. Kindred or consanguinity is the connexion or relation of persons descended from the same stock or common ancestor.

21. Lineal consanguinity is that which subsists between two persons, one of whom is descended in a direct line from the other, as between a man and his father, grandfather, and great-grandfather, and so upwards in the direct ascending line; or between a man, his son, grandson, great-grandson and so downwards in the direct descending line. Every generation constitutes a degree, either ascending or descending. A man's father is related to him in the first degree, and so likewise is his son; his grandfather and grandson in the second degree; his great-grandfather and great-grandson in the third.

22. Collateral consanguinity is that which subsists between two persons who are descended from the same stock or ancestor, but neither of whom is descended in a direct line from the other. For the purpose of ascertaining in what degree of kindred any collateral relative stands to a person deceased, it is proper to reckon upwards from the person deceased to the common stock, and then downwards to the collateral relative, allowing a degree for each person, both ascending and descending.

23. For the purpose of succession, there is no distinction between those who are related to a person deceased through his father and those who are related to him through his mother; nor between those who are related to him by the full blood, and those who are related to him by the half-blood; nor between those who are actually born in his life-time, and those who at the date of his death were only conceived in the womb, but who have been subsequently born alive.

Mode of computing degrees of kindred.

24. In the annexed table of kindred the degrees are computed as far as the sixth, and are marked by numeral figures.

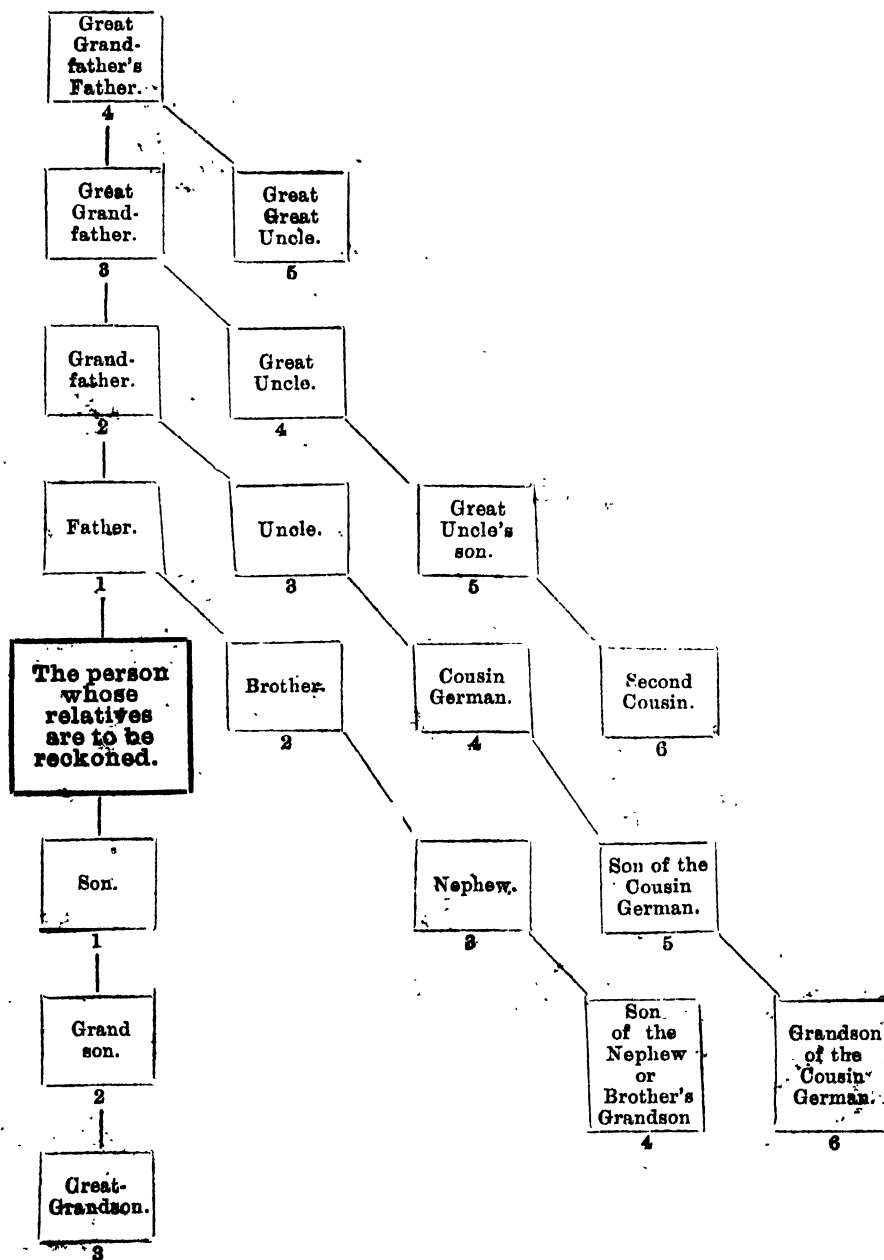
The person whose relatives are to be reckoned, and his cousin-german, or first cousin, are, as shown in the table, related in the fourth degree; there being one degree of ascent to the father, and another to the common ancestor the grandfather; and from him one of descent to the uncle, and another to the cousin-german; making in all four degrees.

A grandson of the brother and a son of the uncle, i. e., a great-nephew and a cousin-german, are in equal degree, being each four degrees removed.

* The whole of this part is declared not to be applicable to Parsees by Act XXI of 1865.

A grandson of a cousin-german is in the same degree as the grandson of a great uncle, for they are both in the sixth degree of kindred.

TABLE OF CONSANGUINITY.



PART IV.*

Of Intestacy.

As to what property a deceased person is considered to have died intestate.

25. A man is considered to die intestate in respect of all property of which he has not made a testamentary disposition which is capable of taking effect.

Illustrations.

(a) A has left no will. He has died intestate in respect of the whole of his property.

(b) A has left a will, whereby he has appointed B his executor ; but the will contains no other provisions. A has died intestate in respect of the distribution of his property.

(c) A has bequeathed his whole property for an illegal purpose. A has died intestate in respect of the distribution of his property.

(d) A has bequeathed 1,000*l.* to B and 1,000*l.* to the eldest son of C, and has made no other bequest : and has died leaving the sum of 2,000*l.* and no other property. C died before A without having ever had a son. A has died intestate in respect of the distribution of 1,000*l.*

26. Such property devolves upon the wife or husband, or upon those

Devolution of such property. who are of the kindred of the deceased, in the order and according to the rules herein prescribed.

Explanation.—The widow is not entitled to the provision hereby made for her, if by a valid contract made before her marriage she has been excluded from her distributive share of her husband's estate.

27. Where the intestate has left a widow, if he has also left any lineal

Where the intestate has left a widow and lineal descendants, or a widow and kindred only, or a widow and no kindred.

descendants, one-third of his property shall belong to his widow, and the remaining two-thirds shall go to his lineal descendants, according to the rules herein contained. If he has left no lineal descendant, but has left persons who are of kindred to him, one-half of his property shall belong to his widow, and the other half shall go to those who are of kindred to him, in the order and according to the rules herein contained. If he has left none who are of kindred to him, the whole of his property shall belong to his widow.

28. Where the intestate has left no widow, his property shall go to

Where the intestate has left no widow, and where he has left no kindred.

his lineal descendants or to those who are of kindred to him, not being lineal descendants, according to the rules herein contained ; and if he has left none who are of kindred to him, it shall go to the Crown.

PART V.†

Of the Distribution of an Intestate's Property.

(a) *Where he has left lineal descendants.*

29. The rules for the distribution of the intestate's property (after

Rules of distribution.

deducting the widow's share, if he has left a widow) amongst his lineal descendants are as follows:—

30. Where the intestate has left surviving him a child or children,

Where the intestate has left a child or children only.

but no more remote lineal descendant through a deceased child, the property shall belong to his surviving child, if there be only one, or shall be equally divided among all his surviving children.

* The whole of this part, except Section 25, is declared not to be applicable to Parsees by Act XXI of 1865.

† The whole of this part is declared not to be applicable to Parsees by Act XXI of 1865.

31. Where the intestate has not left surviving him any child, but has

Where the intestate has left no child but a grandchild or grandchildren. remote descendant through a deceased grandchild, the property shall belong to his surviving grandchild, if there be only one, or shall be equally divided among all his surviving grandchildren.

Illustrations.

(a) A has three children, and no more ; John, Mary and Henry. They all die before the father, John leaving two children, Mary three, and Henry four. Afterwards A dies intestate, leaving those nine grandchildren and no descendant of any deceased grandchild. Each of his grandchildren shall have one ninth.

(b) But if Henry has died, leaving no child, then the whole is equally divided between the intestate's five grandchildren, the children of John and Mary.

(c) A has two children, and no more ; John and Mary. John dies before his father, leaving his wife pregnant. Then A dies, leaving Mary surviving him, and in due time's child of John is born. A's property is to be equally divided between Mary and such posthumous child.

32. In like manner the property shall go to

Where the intestate has left only great-grandchildren or lineal descendants in a remoter degree. the surviving lineal descendants who are nearest in degree to the intestate, where they are all in the degree of great-grandchildren to him, or are all in a more remote degree.

33. If the intestate has left lineal descendants who do not all stand

Where the intestate leaves lineal descendants not all in the same degree of kindred to him and those through whom the more remote descend are dead. in the same degree of kindred to him, and the persons through whom the more remote are descended from him are dead, the property shall be divided into such a number of equal shares as may correspond with the number of the lineal descendants of the intestate who either stood in the nearest degree of kindred to him at his decease, or, having been of the like degree of kindred to him, died before him, leaving lineal descendants who survived him ; and one of such shares shall be allotted to each of the lineal descendants who stood in the nearest degree of kindred to the intestate at his decease ; and one of such shares shall be allotted in respect of each of such deceased lineal descendants ; and the shares allotted in respect of each of such deceased lineal descendants shall belong to his surviving child or children or more remote lineal descendants, as the case may be ; such surviving child or children or more remote lineal descendant always taking the share which his or their parent or parents would have been entitled to respectively if such parent or parents had survived the intestate.

Illustrations.

(a) A had three children, John, Mary and Henry ; John died, leaving four children, and Mary died, leaving one. Henry alone survived the father. On the death of A intestate, one-third is allotted to Henry, one-third to John's four children, and the remaining third to Mary's one child.

(b) A left no child, but left eight grandchildren and two children of a deceased grandchild. The property is divided into nine parts, one of which is allotted to each grandchild ; and the remaining ninth is equally divided between the two great-grandchildren.

(c) A has three children, John, Mary and Henry. John dies leaving four children, and one of John's children dies leaving two children. Mary dies leaving one child. A afterwards dies intestate. One-third of his property is allotted to Henry ; one-third to Mary's child ; and one-third is divided into four parts, one of which is allotted to each of John's three surviving children, and the remaining part is equally divided between John's two grandchildren.

(b) Where the Intestate has left no lineal descendants.

34. Where an intestate has left no lineal descendants, the rules for

Rule of distribution where the intestate has left no lineal descendants. the distribution of his property (after deducting the widow's share, if he has left a widow) are as follows :—

Where intestate's father is living.

35. If the intestate's father be living, he shall succeed to the property.

36. If the intestate's father is dead, but the intestate's mother is living, and there are also brothers or sisters of the intestate living, and there is no child living of any deceased brother or sister, the mother and each living brother or sister shall succeed to the property equalin shares.

Where intestate's father is dead but his mother, brothers and sisters are living.

Illustration.

A dies intestate, survived by his mother and two brothers of the full blood, John and Henry, and a sister Mary, who is the daughter of his mother, but not his father. The mother takes one-fourth, each brother takes one-fourth, and Mary, the sister of half-blood, takes one-fourth.

3. If the intestate's father is dead, but the intestate's mother is living, and if any brother or sister, and the child or children of any brother or sister who may have died in the intestate's lifetime are also living, then the mother and living brother or sister, and the living child or children of each deceased brother or sister, shall be entitled to the property in equal shares, such children (if more than one) taking in equal shares only the shares which their respective parents would have taken if living at the intestate's death.

Where intestate's father dead and his mother, a brother or sister, and children of any deceased brother or sister are living.

Illustration.

A the intestate leaves his mother, his brothers John and Henry, and also one child of a deceased sister Mary, and two children of George, a deceased brother of the half-blood, who was the son of his father but not of his mother. The mother takes one-fifth, John and Henry each takes one-fifth, the child of Mary takes one-fifth, and the two children of George divide the remaining one-fifth equally between them.

38. If the intestate's father is dead, but the intestate's mother is living, and the brothers and sisters are all dead, but all or any of them have left children who survived the intestate, the mother and the child or children of each deceased brother or sister shall be entitled to the property in equal shares, such children (if more than one) taking in equal shares only the shares which their respective parents would have taken if living at the intestate's death.

Where intestate's father is dead and his mother and the children of any deceased brother or sister are living.

Illustration.

A the intestate leaves no brother or sister, but leaves his mother and one child of a deceased sister Mary, and two children of a deceased brother George. The mother takes one-third, the child of Mary takes one-third, and the children of George divide the remaining one-third equally between them.

Where intestate's father is dead, but his mother is living and there is no brother nor sister nor nephew.

39. If the intestate's father is dead, but the intestate's mother is living, and there is neither brother nor sister, nor child of any brother or sister of the intestate, the property shall belong to the mother.

40. Where the intestate has left neither lineal descendant nor father nor mother, the property is divided equally between his brothers and sisters and the child or children of such of them as may have died before him, such children (if more than one) taking in equal shares only the shares which their respective parents would have taken if living at the intestate's death.

Where intestate has left neither lineal descendant nor father nor mother.

Where intestate has left neither lineal descendants nor parent, nor brother nor sister.

41. If the intestate left neither lineal descendant, not parent, nor brother, nor sister, his property shall be divided equally among those of his relatives who are in the nearest degree of kindred to him.

Illustrations.

(a) A, the intestate, has left a grand-father and a grand-mother, and no other relative standing in the same or a nearer degree of kindred to him. They, being in the second degree, will be entitled to the property in equal shares, exclusive of any uncle or aunt of the intestate, uncles and aunts being only in the third degree.

(b) A, the intestate, has left a great-grandfather, or great-grandmother, and uncles and aunts, and no other relative standing in the same or a nearer degree of kindred to him. All of these being in the third degree shall take equal shares.

(c) A, the intestate, left a great-grandfather, an uncle, and a nephew, but no relative standing in a nearer degree of kindred to him. All of these being in the third degree shall take equal shares.

(d) Ten children of one brother or sister of the intestate, and one child of another brother or sister of the intestate, constitute the class of relatives of the nearest degree of kindred to him. They shall each take one-eleventh of the property.

42. Where a distributive share in the property of a person who has

Children's advancements not to be brought into hotchpot.

died intestate shall be claimed by a child, or any descendant of a child of such person, no money or other property which the intestate may during his life have paid, given, or settled to or for the advancement of the child by whom or by whose descendant the claim is made, shall be taken into account in estimating such distributive share.

NOTE.—The Governor-General in Council has ruled that the effects of illegitimate persons dying intestate, which have already become escheats to the Government since the Indian Succession Act, 1865, came into operation, as well as those which may hereafter become escheats, shall, after deduction of the expenses incurred, and the established proportion of the Crown's share, be distributed in conformity with the said Act.—(Notification No. 3099, dated 15th December 1871, republished as No. 2189, dated 31st March 1873).

The following Financial despatch from the Secretary of State for India, No. 53, dated 12th February 1873, has been published in the *Gazette of India* in continuation of Notification No. 3099, dated 15th December 1871:—

"Para 1. With reference to your despatches in this Department of 20th December 1871, No. 345, and 20th December 1872, No. 498, I have to signify my approval of your proceedings in regard to the estate of the late Mr. P. T. Saunders.

"2. On the general question of dealing with estates of illegitimate persons dying intestate, I approve of the course suggested by you being followed in all cases where all the parties clearly entitled to consideration are resident in India, but in cases where no such claim is established within one year from the date of the escheat, or when the probable claimants are in this country, then the practice of remitting home these escheats should be adhered to." (Notification No. 2189, dated 31st March 1873).

PART VI.

Of the Effect of Marriage and Marriage Settlements on Property.

43. The husband surviving his wife has the same rights in respect of her property, if she die intestate, as the widow has in respect of her husband's property, if he die intestate.*

44. If a person whose domicile is not in British India marries in British India a person whose domicile is in British India, neither party acquires by the marriage any rights in respect of any property of the other party not comprised in a settlement made previous to the marriage, which he or she would not acquire thereby if both were domiciled in British India at the time of the marriage.

No rights to property not comprised in an ante-nuptial settlement, acquired by marriage between a person domiciled and a person not domiciled in British India.

* This section is declared not to be applicable to Parsis by Act XXI of 1865.

45. The property of a minor may be settled in contemplation of marriage, provided the settlement be made by the minor with the approbation of the minor's father, or if he be dead or absent from British India, with the approbation of the High Court.

Settlement of minor's property in contemplation of marriage.

PART VII.

Of Wills and Codicils.

Persons capable of making wills.

46. Every person of sound mind and not a minor may dispose of his property by will.

Explanation 1.—A married woman may dispose by will of any property which she could alienate by her own act during her life.

Explanation 2.—Persons who are deaf, or dumb, or blind are not thereby incapacitated for making a will if they are able to know what they do by it.

Explanation 3.—One who is ordinarily insane may make a will during an interval in which he is of sound mind.

Explanation 4.—No person can make a will while he is in such a state of mind, whether arising from drunkenness, or from illness, or from any other cause, that he does not know what he is doing.

Illustrations.

(a) A can perceive what is going on in his immediate neighbourhood, and can answer familiar questions, but has not a competent understanding as to the nature of his property; or the persons who are of kindred to him, or in whose favour it would be proper that he should make his will. A cannot make a valid will.

(b) A executes an instrument purporting to be his will, but he does not understand the nature of the instrument nor the effect of its provisions. This instrument is not a valid will.

(c) A being very feeble and debilitated, but capable of exercising a judgment as to the proper mode of disposing of his property, makes his will. This is a valid will.

Testamentary guardian.

47. A father, whatever his age may be, may by will appoint a guardian or guardians for his child during minority.

48. A will or any part of a will, the making of which has been caused by fraud or coercion, or by such importunity as takes away the free agency of the testator, is void.

Will obtained by fraud, coercion or importunity.

Illustrations.

(a) A falsely and knowingly represents to the testator that the testator's only child is dead, or that he has done some undutiful act, and thereby induces the testator to make a will in his, A's favour: such will has been obtained by fraud, and is invalid.

(b) A by fraud and deception prevails upon the testator to bequeath a legacy to him. The bequest is void.

(c) A, being a prisoner by lawful authority, makes his will. The will is not invalid by reason of the imprisonment.

(d) A threatens to shoot B, or to burn his house, or to cause him to be arrested on a criminal charge, unless he makes a bequest in favour of C. B in consequence makes a bequest in favour of C. The bequest is void, the making of it having been caused by coercion.

(e) A being of sufficient intellect, if undisturbed by the influence of others, to make a will, yet being so much under the control of B that he is not a free agent, makes a will dictated by B. It appears that he would not have executed the will but for fear of B. The will is invalid.

(f) A being in so feeble of state of health as to be unable to resist importunity, is pressed by B to make a will of a certain purport, and does so merely to purchase peace, and in submission to B. The will is invalid.

(g) A being in such a state of health as to be capable of exercising his own judgment and volition, B uses urgent intercession and persuasion with him to induce him to make a will of a certain purport. A, in consequence of the intercession and persuasion, but in the free exercise of his judgment and volition, makes his will in the manner recommended by B. The will is not rendered invalid by the intercession and persuasion of B.

(h) A with a view to obtaining a legacy from B pays him attention and flatters him, and thereby produces in him a capricious partiality to A. B, in consequence of such attention and flattery, makes his will, by which he leaves a legacy to A. The bequest is not rendered invalid by the attention and flattery of A.

49. A will is liable to be revoked or altered by the maker of it at any time when he is competent to dispose of his property by will.

Will may be revoked or altered.

PART VIII.

Of the Execution of unprivileged Wills.

50. Every testator, not being a soldier employed in an expedition, or engaged in actual warfare, or a mariner at sea, must execute his will according to the following rules:—

Execution of unprivileged wills.

First.—The testator shall sign or shall affix his mark to the will, or it shall be signed by some other person in his presence and by his direction.

Second.—The signature or mark of the testator or the signature of the person signing for him shall be so placed that it shall appear that it was intended thereby to give effect to the writing as a will.

Third.—The will shall be attested by two or more witnesses, each of whom must have seen the testator sign or affix his mark to the will, or have seen some other person sign the will in the presence and by the direction of the testator, or have received from the testator a personal acknowledgment of his signature or mark, or of the signature of such other person; and each of the witnesses must sign the will in the presence of the testator, but it shall not be necessary that more than one witness be present at the same time, and no particular form of attestation shall be necessary.

51. If a testator, in a will or codicil duly attested, refers to any other document then actually written, as expressing any part of his intentions, such document shall be considered as forming a part of the will or codicil in which it is referred to.

Incorporation of papers by reference.

PART IX.

Of Privileged Wills.

52. Any soldier being employed in an expedition, or engaged in actual warfare, or any mariner being at sea, may, if he has completed the age of eighteen years, dispose of his property by a will made as is mentioned in the fifty-third section. Such wills are called privileged wills.

Privileged will

Illustrations.

(a) A, the surgeon of a regiment, is actually employed in an expedition. He is a soldier actually employed in an expedition, and can make a privileged will.

(b) A is at sea in a merchant ship, of which he is the purser. He is a mariner, and being at sea can make a privileged will.

(c) A, a soldier serving in the field against insurgents, is a soldier engaged in actual warfare, and as such can make a privileged will.

(d) A, a mariner of a ship in the course of a voyage, is temporarily on shore while she is lying in harbour. He is, in the sense of the words used in this clause, a mariner at sea, and can make a privileged will.

(e) A, an admiral who commands a naval force, but who lives on shore and only occasionally goes on board his ship, is not considered as at sea, and cannot make a privileged will.

(f) A, a mariner serving on a military expedition, but not being at sea, is considered as a soldier, and can make a privileged will.

53. Privileged wills may be in writing, or may be made by word of mouth. The execution of them shall be governed for executing, privileged wills, by the following rules:—

First.—The will may be written wholly by the testator, with his own hand. In such case it need not be signed nor attested.

Second.—It may be written wholly or in part by another person, and signed by the testator. In such case it need not be attested.

Third.—If the instrument purporting to be a will is written wholly or in part by another person, and is not signed by the testator, it shall be considered to be his will, if it be shown that it was written by the testator's directions, or that he recognized it as his will. If it appear on the face of the instrument that the execution of it in the manner intended by him was not completed, the instrument shall not by reason of that circumstance be invalid, provided that his non-execution of it can be reasonably ascribed to some cause other than the abandonment of the testamentary intentions expressed in the instrument.

Fourth.—If the soldier or mariner shall have written instructions for the preparation of his will, but shall have died before it could be prepared and executed, such instructions shall be considered to constitute his will.

Fifth.—If the soldier or mariner shall in the presence of two witnesses have given verbal instructions for the preparation of his will, and they shall have been reduced into writing in his lifetime, but he shall have died before the instrument could be prepared and executed, such instructions shall be considered to constitute his will, although they may not have been reduced into writing in his presence, nor read over to him.

Sixth.—Such soldier or mariner as aforesaid may make a will by word of mouth by declaring his intentions before two witnesses present at the same time.

Seventh.—A will made by word of mouth shall be null at the expiration of one month after the testator shall have ceased to be entitled to make a privileged will.

PART X.

Of the Attestation, Revocation, Alteration and Revival of Wills.

54. A will shall not be considered as insufficiently attested by reason of any benefit thereby given, either by way of bequest or by way of appointment, to any person attesting it, or to his or her wife or husband: but the bequest or appointment shall be void so far as concerns the person so attesting, or the wife or husband of such person, or any person claiming under either of them.

Explanation.—A legatee under a will does not lose his legacy by attesting a codicil which confirms the will.

55. No person, by reason of interest in or of his being an executor of a will, is disqualified as a witness to prove the execution of the will or to prove the validity or invalidity thereof.

56. Every will shall be revoked by the marriage of the maker, except a will made in exercise of a power of appointment, when the property over which the power of appointment is exercised would not in default of such appointment pass to his or her executor, or administrator, or to the person entitled in case of intestacy.

Explanation.—Where a man is invested with power to determine the disposition of property of which he is not the owner, he is said to have power to appoint such property.

57. No unprivileged will or codicil, nor any part thereof, shall be revoked otherwise than by marriage, or by another will or codicil, or by some writing declaring an intention to revoke the same, and executed in the manner in which an unprivileged will is hereinbefore required to be executed, or by the burning, tearing, or otherwise destroying the same by the testator, or by some person in his presence and by his direction, with the intention of revoking the same.

Illustrations.

(a) A has made an unprivileged will; afterwards A makes another unprivileged will which purports to revoke the first. This is a revocation.

(b) A has made an unprivileged will; afterwards, A being entitled to make a privileged will, makes a privileged will, which purports to revoke his unprivileged will. This is a revocation.

58. No obliteration, interlineation, or other alteration made in any unprivileged will after the execution thereof shall have any effect, except so far as the words or meaning of the will shall have been thereby rendered illegible or undiscernible, unless such alteration shall be executed in like manner as hereinbefore is required for the execution of the will; save that the will, as so altered, shall be deemed to be duly executed if the signature of the testator and the subscription of the witnesses be made in the margin or on some other part of the will opposite or near to such alteration, or at the foot or end of or opposite to a memorandum referring to such alteration, and written at the end or some other part of the will.

59. A privileged will or codicil may be revoked by the testator, by an unprivileged will or codicil, or by any act expressing an intention to revoke it, and accompanied with such formalities as would be sufficient to give validity to a privileged will, or by the burning, tearing, or otherwise destroying the same by the testator, or by some person in his presence and by his direction, with the intention of revoking the same.

Explanation.—In order to the revocation of a privileged will or codicil by an act accompanied with such formalities as would be sufficient to give validity to a privileged will, it is not necessary that the testator should at the time of doing that act be in a situation which entitles him to make a privileged will.

60. No unprivileged will or codicil, nor any part thereof, which shall be in any manner revoked, shall be revived otherwise than by the re-execution thereof, or by a codicil executed in manner hereinbefore required, and showing

an intention to revive the same; and when any will or codicil which shall be partly revoked, and afterwards wholly revoked, shall be revived, such revival shall not extend to so much thereof as shall have been revoked before the revocation of the whole thereof, unless an intention to the contrary shall be shown by the will or codicil.

Extent of revival of will or codicil partly revoked and afterwards wholly revoked.

partly revoked, and afterwards wholly revoked, shall be revived, such revival shall not extend to so much thereof as shall have been revoked before the revocation of the whole thereof, unless an intention to the

contrary shall be shown by the will or codicil.

PART XI.

Of the Construction of Wills.

NOTE.—Nothing contained in Chapter VI of the Indian Evidence Act, 1872, shall be taken to affect any of the provisions of the Indian Succession Act as to the construction of wills.—(Act I of 1872, Section 100).

61. It is not necessary that any technical words or terms of art shall be used in a will, but only that the wording shall be such that the intentions of the testator can be known therefrom.

Wording of will.

62. For the purpose of determining questions as to what person or what property is denoted by any words used in a will, a Court must inquire into every material fact relating to the persons who claim to be interested under such will, the property which is claimed as the subject of disposition, the circumstances of the testator and of his family, and into every fact a knowledge of which may conduce to the right application of the words which the testator has used.

Enquiries to determine questions as to object or subject of will.

Illustrations.

(a) A, by his will, bequeaths 1,000 rupees to his eldest son, or to his youngest grandchild, or to his cousin Mary. A Court may make inquiry in order to ascertain to what person the description in the will applies.

(b) A, by his will, leaves to B "his estate called Black Acre." It may be necessary to take evidence in order to ascertain what is the subject-matter of the bequest; that is to say what estate of the testator's is called Black Acre.

(c) A, by his will, leaves to B "the estate which he purchased of C." It may be necessary to take evidence in order to ascertain what estate the testator purchased of C.

63. Where the words used in the will to designate or describe a legatee, or a class of legatees, sufficiently show what is meant, an error in the name or description shall not prevent the legacy from taking effect. A mistake in the name of a legatee may be corrected by a description of him, and a mistake in the description of a legatee may be corrected by the name.

Misnomer or misdescription of object.

Illustrations.

(a) A bequeaths a legacy to "Thomas, the second son of his brother John." The testator has an only brother, named John, who has no son named Thomas, but has a second son whose name is William. William shall have the legacy.

(b) A bequeaths a legacy "to Thomas, the second son of his brother John." The testator has an only brother named John, whose first son is named Thomas, and whose second son is named William. Thomas shall have the legacy.

(c) The testator bequeaths his property "to A and B, the legitimate children of C." C has no legitimate child, but has two illegitimate children, A and B. The bequest to A and B takes effect, although they are illegitimate.

(d) The testator gives his residuary estate to be divided among "his seven children," and proceeding to enumerate them, mentions six names only. This omission shall not prevent the seventh child from taking a share with the others.

(e) The testator having six grandchildren, makes a bequest to "his six grandchildren," and proceeding to mention them by their Christian names mentions one twice over, omitting another altogether. The one whose name is not mentioned shall take a share with the others.

(f) The testator bequeaths "1,000 rupees to each of the three children of A." at the date of the will, A has four children. Each of these four children shall, if he survives the testator, receive a legacy of 1,000 rupees.

When words may be supplied.

64. Where any word material to the full expression of the meaning has been omitted, it may be supplied by the context.

Illustration.

The testator gives a legacy of "five hundred" to his daughter A, and a legacy of "five hundred rupees" to his daughter B. A shall take a legacy of five hundred rupees.

65. If the thing which the testator intended to bequeath can be sufficiently identified from the description of it given in the will, but some parts of the description do not apply, such parts of the description shall be rejected as erroneous, and the bequest shall take effect.

Rejection of erroneous particulars in description of subject.

Illustrations.

(a) A bequeaths to B "his marsh lands lying in L, and in the occupation of X." The testator had marsh lands lying in L, but had no marsh lands in the occupation of X. The words "in the occupation of X" shall be rejected as erroneous, and the marsh lands of the testator lying in L shall pass by the bequest.

(b) The testator bequeaths to A "his zamindari of Rampur." He had an estate at Rampur, but it was a taluk and not a zamindari. The taluk passes by this bequest.

66. If the will mentions several circumstances as descriptive of the thing which the testator intends to bequeath, and there is any property of his in respect of which all those circumstances exist, the bequest shall be considered as limited to such property, and it shall not be lawful to reject any part of the description as erroneous, because the testator had other property to which such part of the description does not apply.

When part of description may not be rejected as erroneous.

Explanation.—In judging whether a case falls within the meaning of this section, any words which would be liable to rejection under the sixty-fifth section are to be considered as struck out of the will.

Illustrations.

(a) A bequeaths to B "his marsh lands lying in L, and in the occupation of X." The testator had marsh lands lying in L, some of which were in the occupation of X, and some not in the occupation of X. The bequest shall be considered as limited to such of the testator's marsh lands lying in L as were in the occupation of X.

(b) A bequeaths to B "his marsh lands lying in L, and in the occupation of X, comprising 1,000 bighas of land." The testator had marsh lands lying in L, some of which were in the occupation of X and some not in the occupation of X. The measurement is wholly inapplicable to the marsh lands of either class, or to the whole taken together. The measurement shall be considered as struck out of the will, and such of the testator's marsh lands lying in L, as were in the occupation of X, shall alone pass by the bequest.

67. Where the words of the will are unambiguous, but it is found by extrinsic evidence admissible in case of latent ambiguity, that they admit of applications, one only of which can have been intended by the testator, extrinsic evidence may be taken to show which of these applications was intended.

Extrinsic evidence admissible in case of latent ambiguity.

Illustrations.

(a) A man having two cousins of the name of Mary, bequeaths a sum of money to "his cousin Mary." It appears that there are two persons, each answering the description in the will. That description, therefore, admits of two applications, only one of which can have been intended by the testator. Evidence is admissible to show which of the two applications was intended.

(b) A, by his will, leaves to B "his estate called Sultanpur Khurd." It turns out that he had two estates called Sultanpur Khurd. Evidence is admissible to show which estate was intended.

Extrinsic evidence inadmissible in cases of patent ambiguity or deficiency.

68. Where there is an ambiguity or deficiency on the face of the will, no extrinsic evidence as to the intentions of the testator shall be admitted.

Illustrations.

(a) A man has an aunt Caroline and a cousin Mary, and has no aunt of the name of Mary. By his will he bequeaths 1,000 rupees to "his aunt Caroline and 1,000 rupees to "his cousin Mary," and afterwards bequeaths 2,000 rupees to "his before-mentioned aunt Mary." There is no person to whom the description given in the will can apply, and evidence is not admissible to show who was meant by "his before-mentioned aunt Mary." The bequest is therefore void for uncertainty under the seventy-sixth section.

(b) A bequeaths 1,000 rupees to _____, leaving a blank for the name of the legatee. Evidence is not admissible to show what name the testator intended to insert.

(c) A bequeaths to B _____ rupees, or "his estate of _____." Evidence is not admissible to show what sum or what estate the testator intended to insert.

69. The meaning of any clause in a will is to be collected from the entire instrument, and all its parts are to be construed with reference to each other; and for this purpose a codicil is to be considered as part of the will.

Meaning of any clause to be collected from entire will.

Illustrations.

(a) The testator gives to B a specific fund or property at the death of A, and by a subsequent clause gives the whole of his property to A. The effect of the several clauses taken together is to vest the specific fund or property in A for life, and after his decease in B; it appearing from the bequest to B that the testator meant to use in a restricted sense the words in which he describes what he gives to A.

(b) Where a testator, having an estate one part of which is called Black Acre, bequeaths the whole of his estate to A, and in another part of his will bequeaths Black Acre to B, the latter bequest is to be read as an exception out of the first, as if he had said, "I give Black Acre to B, and all the rest of my estate to A."

70. General words may be understood in a restricted sense where it may be collected from the will that the testator meant to use them in a restricted sense; and words

When words may be understood in a restricted sense and when in a sense wider than usual.

may be understood in a wider sense than that which they usually bear, where it may be collected from the other words of the will that the testator meant to use them in such wider sense.

Illustrations.

(a) A testator gives to A "his farm in the occupation of B," and to C "all his marsh lands in L." Part of the farm in the occupation of B consists of marsh lands in L, and the testator also has other marsh lands in L. The general words, "all his marsh lands in L," are restricted by the gift to A. A takes the whole of the farm in the occupation of B, including that portion of the farm which consists of marsh lands in L.

(b) The testator (a sailor on ship-board) bequeathed to his mother his goldring, buttons, and chest of clothes, and to his friend A (a shipmate) his red box, clasp-knife, and all things not before bequeathed. The testator's share in a house does not pass to A under this bequest.

(c) A by his will bequeathed to B all his household furniture, plate, linen, china, books, pictures and all other goods of whatever kind; and afterwards bequeathed to B a special part of his property. Under the first bequest B is entitled only to such articles of the testator's as are of the same nature with the articles therein enumerated.

Where a clause is open to two constructions, that which has some effect is to be preferred.

71. Where a clause is susceptible of two meanings, according to one of which it has some effect, and according to the other it can have none, the former is to be preferred.

No part of will to be rejected, if reasonable construction can be put on it.

72. No part of a will is to be rejected as destitute of meaning if it is possible to put a reasonable construction upon it.

73. If the same words occur in different parts of the same will, they

Interpretation of words repeated in different parts of will.

must be taken to have been used everywhere in the same sense, unless there appears an intention to the contrary.

Testator's intention to be effectuated as far as possible.

74. The intention of the testator is not to be set aside because it cannot take effect to the full extent, but effect is to be given to it as far as possible.

Illustration.

The testator by a will made on his death-bed bequeathed all his property to C D for life and after his decease to a certain hospital. The intention of the testator cannot take effect to its full extent, because the gift to the hospital is void under the hundred and fifth section, but it shall take effect so far as regards the gift to C D.

The last of two inconsistent clauses prevails.

75. Where two clauses or gifts in a will are irreconcilable, so that they cannot possibly stand together, the last shall prevail.

Illustrations.

(a) The testator by the first clause of his will leaves his estate of Ramnagar "to A," and by the last clause of his will leaves it "to B and not to A." B shall have it.

(b) If a man at the commencement of his will gives his house to A, and at the close of it directs that his house shall be sold and the proceeds invested for the benefit of B, the latter disposition shall prevail.

Will or bequest void for uncertainty.

76. A will or bequest not expressive of any definite intention is void for uncertainty.

Illustration.

If a testator says—"I bequeath goods to A;" or "I bequeath to A;" or "I leave to A all the goods mentioned in a schedule," and no schedule is found; or "I bequeath 'money,' 'wheat,' 'oil' " or the like, without saying how much, this is void.

77. The description contained in a will, of property the subject of gift, shall, unless a contrary intention appear by the will, be deemed to refer to and comprise the property answering that description at the death of the testator.

Words describing subject refer to property answering that description at testator's death.

78. Unless a contrary intention shall appear by the will, a bequest of the estate of the testator shall be construed to include any property which he may have power to appoint by will to any object he may think proper, and shall operate as an execution of such power; and a bequest of property described in a general manner shall be construed to include any property to which such description may extend, which he may have power to appoint by will to any object he may think proper, and shall operate as an execution of such power.

Power of appointment executed by general bequest.

79. Where property is bequeathed to or for the benefit of such of certain objects as a specified person shall appoint, or for the benefit of certain objects in such proportions as a specified person shall appoint; and the will does not provide for the event of no appointment being made; if the power given by the will be not exercised, the property belongs to all the objects of the power in equal shares.

Implied gift to the objects of a power in default of appointment.

Illustration.

A by his will bequeaths a fund to his wife for her life, and directs that at her death it shall be divided among his children in such proportions as she shall appoint. The widow dies without having made any appointment. The fund shall be divided equally among the children.

80. Where a bequest is made to the "heirs," or "right heirs," or "relations," or "nearest relations," or "family," or "kindred," or "nearest of kin," or "next of kin," of a particular person, without any qualifying terms,

Bequest to "heirs," &c., of a particular person without qualifying terms.

and the class so designated forms the direct and independent object of the bequest, the property bequeathed shall be distributed as if it had belonged to such person, and he had died intestate in respect of it, leaving assets for the payment of his debts independently of such property.

Illustrations.

(a) A leaves his property "to his own nearest relations." The property goes to those who would be entitled to it if A had died intestate, leaving assets for the payment of his debts independently of such property.

(b) A bequeaths 10,000 rupees "to B for his life, and after the death of B to his own right heirs." The legacy after B's death belongs to those who would be entitled to it if it had formed part of A's unbequeathed property.

(c) A leaves his property to B; but if B dies before him to B's next of kin: B dies before A; the property devolves as if it had belonged to B, and he had died intestate, leaving assets for the payment of his debts independently of such property.

(d) A leaves 10,000 rupees "to B for his life, and after his decease, to the heirs of C." The legacy goes as if it had belonged to C and he had died intestate, leaving assets for the payment of his debts independently of the legacy.

81. Where a bequest is made to the "representatives," or "legal representatives," or "personal representatives," or "executors or administrators," of a particular person, and the class so designated forms the direct and independent object of the bequest, the property bequeathed shall be distributed as if it had belonged to such person, and he had died intestate in respect of it.

Illustration.

A bequest is made to the "legal representatives" of A. A has died intestate and insolvent. B is his administrator. B is entitled to receive the legacy and shall apply it in the first place to the discharge of such part of A's debts as may remain unpaid; if there be any surplus, B shall pay it to those persons who at A's death would have been entitled to receive any property of A's which might remain after payment of his debts, or to the representatives of such persons.

82. Where property is bequeathed to any person, he is entitled to the whole interest of the testator therein, unless it appears from the will that only a restricted interest was intended for him.

Bequest without words of limitation.

83. Where property is bequeathed to a person, with a bequest in the alternative to another person or to a class of persons; if a contrary intention does not appear by the will, the legatee first named shall be entitled to the legacy, if he be alive at the time when it takes effect; but if he be then dead, the person or class of persons named in the second branch of the alternative shall take the legacy.

Illustrations.

(a) A bequest is made to A or to B. A survives the testator. B takes nothing.

(b) A bequest is made to A or to B. A dies after the date of the will, and before the testator. The legacy goes to B.

(c) A bequest is made to A or to B. A is dead at the date of the will. The legacy goes to B.

(d) A property is bequeathed to A or his heirs. A survives the testator. A takes the property absolutely.

(e) Property is bequeathed to A or his nearest of kin. A dies in the lifetime of the testator. Upon the death of the testator, the bequest to A's nearest of kin takes effect.

(f) Property is bequeathed to A for life, and after his death to B or his heirs. A and B survive the testator. B dies in A's lifetime. Upon A's death the bequest to the heirs of B takes effect.

(g) Property is bequeathed to A for life, and after his death to B or his heirs. B dies in the testator's lifetime. A survives the testator. Upon A's death the bequest to the heirs of B takes effect.

84. Where property is bequeathed to a person, and words are added which describe a class of persons, but do not denote a class added to a them as direct objects of a distinct and independent bequest to a person. gift, such person is entitled to the whole interest of the testator therein, unless a contrary intention appears by the will.

Illustrations.

- (a) A bequest is made—
 to A and his children,
 to A and his children by his present wife,
 to A and his heirs,
 to A and the heirs of his body,
 to A and the heirs male of his body,
 to A and the heirs female of his body,
 to A and his issue,
 to A and his family,
 to A and his descendants,
 to A and his representatives,
 to A and his personal representatives,
 to A, his executors and administrators.

In each of these cases, A takes the whole interest which the testator had in the property.

(b) A bequest is made to A and his brothers. A and his brothers are jointly entitled to the legacy.

(c) A bequest is made to A for life, and after his death to his issue. At the death of A the property belongs in equal shares to all persons who shall then answer the description of issue of A.

85. Where a bequest is made to a class of persons under a general description only, no one to whom the words of the description are not in their ordinary sense applicable shall take the legacy.

86. The word “children” in a will applies only to lineal descendants in the first degree; the word “grandchildren” applies only to lineal descendants in the second degree of the person whose “children,” or “grandchildren,” are spoken of; the words “nephews” and “nieces” apply only to the children of brothers or sisters; the words “cousins” or “first cousins,” or “cousins-german” apply only to children of brothers or of sisters of the father or mother of the person whose “cousins,” or “first cousins,” or “cousins-german,” are spoken of; the words “first cousins once removed” apply only to the children of cousins-german, or to cousins-german of a parent, of the person whose “first cousins once removed” are spoken of; the words “second cousins” apply only to grandchildren of brothers or of sisters of the grandfather or grandmother of the person whose “second cousins” are spoken of; the words “issue” and “descendants” apply to all lineal descendants whatever of the person whose “issue” or “descendants” are spoken of. Words expressive of collateral relationship apply alike to relatives of full and of half blood. All words expressive of relationship apply to a child in the womb who is afterwards born alive.

87. In the absence of any intimation to the contrary in the will, the term “child,” “son,” or “daughter,” or any word which expresses relationship, is to be understood as denoting only a legitimate relative, or where there is no such legitimate relative, a person who has acquired, at the date of the will, the reputation of being such relative.

Words expressing relationship denote only legitimate relatives, or failing such, relatives reputed legitimate.

Illustrations.

(a) A, having three children, B, C and D. of whom B and C are legitimate and D is illegitimate, leaves his property to be equally divided among "his children." The property belongs to B and C in equal shares, to the exclusion of D.

(b) A, having a niece of illegitimate birth, who has acquired the reputation of being his niece, and having no legitimate niece, bequeaths a sum of money to his niece. The illegitimate niece is entitled to the legacy.

(c) A, having in his will enumerated his children, and named as one of them B, who is illegitimate, leaves a legacy to "his said children." B will take a share in the legacy along with the legitimate children.

(d) A leaves a legacy to the "children of B." B is dead, and has left none but illegitimate children. All those who had, at the date of the will, acquired the reputation of being the children of B are objects of the gift.

(e) A bequeathed a legacy to "the children of B." B never had any legitimate child. C and D had at the date of the will acquired the reputation of being children of B. After the date of the will, and before the death of the testator, E and F were born, and acquired the reputation of being children of B. Only C and D are objects of the bequest.

(f) A makes a bequest in favor of his child by a certain woman, not his wife. B had acquired at the date of the will the reputation of being the child of A by the woman designated. B takes the legacy.

(g) A makes a bequest in favour of his child to be born of a woman, who never becomes his wife. The bequest is void.

(h) A makes a bequest in favour of the child of which a certain woman, not married to him, is pregnant. The bequest is valid.

88. Where a will purports to make two bequests to the same person, and a question arises whether the testator intended to make the second bequest instead of or in addition to the first; if there is nothing in the will to show what he intended, the following rules shall prevail in determining the construction to be put upon the will:—

First.—If the same specific thing is bequeathed twice to the same legatee in the same will, or in the will and again in a codicil, he is entitled to receive that specific thing only.

Second.—Where one and the same will or one and the same codicil purports to make in two places a bequest to the same person of the same quantity or amount of anything, he shall be entitled to one such legacy only.

Third.—Where two legacies of unequal amount are given to the same person in the same will, or in the same codicil, the legatee is entitled to both.

Fourth.—Where two legacies, whether equal or unequal in amount, are given to the same legatee, one by a will and the other by a codicil, or each by a different codicil, the legatee is entitled to both legacies.

Explanation.—In the four last rules, the word will does not include a codicil.

Illustrations.

(a) A having ten shares, and no more, in the Bank of Bengal, made his will, which contains near its commencement the words "I bequeath my ten shares in the Bank of Bengal to B." After other bequests, the will concludes with the words "and I bequeath my ten shares in the Bank of Bengal to B." B is entitled simply to receive A's ten shares in the Bank of Bengal.

(b) A having one diamond ring, which was given him by B, bequeathed to C the diamond ring which was given him by B. A afterwards made a codicil to his will, and thereby, after giving other legacies, he bequeathed to C the diamond ring which was given him by B. C can claim nothing except the diamond ring which was given to A by B.

(c) A, by his will, bequeaths to B the sum of 5,000 rupees, and afterwards, in the same will, repeats the bequest in the same words. B is entitled to one legacy of 5,000 rupees only.

(d) A, by his will, bequeaths to B the sum of 5,000 rupees, and afterwards, by the same will, bequeaths to B the sum of 6,000 rupees. B is entitled to 11,000 rupees.

(e) A, by his will, bequeaths to B 5,000 rupees, and by a codicil to the will he bequeaths to him 5,000 rupees. B is entitled to receive 10,000 rupees.

(f) A, by one codicil to his will, bequeaths to B 5,000 rupees, and by another codicil bequeaths to him 6,000 rupees. B is entitled to receive 11,000 rupees.

(g) A, by his will, bequeaths "500 rupees to B because she was his nurse," and in another part of the will bequeaths 500 rupees to B "because she went to England with his children." B is entitled to receive Rs. 1,000.

(h) A, by his will, bequeaths to B the sum of 5,000 rupees, and also, in another part of the will, an annuity of 400 rupees. B is entitled to both legacies.

(i) A, by his will, bequeaths to B the sum of 5,000 rupees and also bequeaths to him the sum of 5,000 rupees if he shall attain the age of 18. B is entitled absolutely to one sum of 5,000 rupees, and takes a contingent interest in another sum of 5,000 rupees.

89. A residuary legatee may be constituted by any words that show an intention on the part of the testator that the person designated shall take the surplus or residue of his property.

Constitution of residuary legatee.

Illustrations.

(a) A makes her will, consisting of several testamentary papers, in one of which are contained the following words:—"I think there will be something left, after all funeral expenses, &c., to give to B, now at school, towards equipping him to any profession he may hereafter be appointed to." B is constituted residuary legatee.

(b) A makes his will, with the following passage at the end of it:—"I believe there will be found sufficient in my banker's hands to defray and discharge my debts, which I hereby desire B to do, and keep the residue for her own use and pleasure." B is constituted the residuary legatee.

(c) A bequeaths all his property to B, except certain stocks and funds, which he bequeaths to C. B is the residuary legatee.

90. Under a residuary bequest, the legatee is entitled to all property belonging to the testator at the time of his death, of which he has not made any other testamentary disposition which is capable of taking effect.

Illustration.

A, by his will bequeaths certain legacies, one of which is void under the hundred and fifth section, and another lapses by the death of the legatee. He bequeaths the residue of his property to B. After the date of his will, A purchases a zamindari, which belongs to him at the time of his death. B is entitled to the two legacies and the zamindari as part of the residue.

91. If a legacy be given in general terms, without specifying the time when it is to be paid, the legatee has a vested interest in it from the day of the death of the testator, and if he dies without having received it, it shall pass to his representatives.

Time of vesting of legacy in general terms.

92. If the legatee does not survive the testator, the legacy cannot take effect, but shall lapse and form part of the residue of the testator's property, unless it appear by the will that the testator intended that it should go to some other person. In order to entitle the representatives of the legatee to receive the legacy, it must be proved that he survived the testator.

In what case a legacy lapses.

Illustrations.

(a) The testator bequeaths to B "500 rupees which B owes him." B dies before the testator; the legacy lapses.

(b) A bequest is made to A and his children. A dies before the testator or happens to be dead when the will is made. The legacy to A and his children lapses.

(c) A legacy is given to A, and in case of his dying before the testator to B. A dies before the testator. The legacy goes to B.

(d) A sum of money is bequeathed to A for life, and after his death to B. A dies in the lifetime of the testator; B survives the testator. The bequest to B takes effect.

(e) A sum of money is bequeathed to A on his completing his eighteenth year, and in case he should die before he completes his eighteenth year, to B. A completes his eighteenth year and dies in the lifetime of the testator. The legacy to A lapses, and the bequest to B does not take effect.

(f) The testator and the legatee perished in the same shipwreck. There is no evidence to show which died first. The legacy will lapse.

A legacy does not lapse if one of two joint legatees die before the testator.

93. If a legacy be given to two persons jointly, and one of them die before the testator, the other legatee takes the whole.

Illustration.

The legacy is simply to A and B. A dies before the testator. B takes the legacy.

94. But where a legacy is given to legatees in words which show that the testator intended to give them distinct shares of it, then if any legatee die before the testator, so much of the legacy as was intended for him shall fall into the residue of the testator's property.

Effect, in such a case, of words showing testator's intention, that the shares should be distinct.

Illustration.

A sum of money is bequeathed to A, B and C, to be equally divided among them. A dies before the testator. B and C shall only take so much as they would have had if A had survived the testator.

When lapsed share goes as undisposed of.

95. Where the share that lapses is a part of the general residue bequeathed by the will, that share shall go as undisposed of.

Illustration.

The testator bequeaths the residue of his estate to A, B and C, to be equally divided between them. A dies before the testator. His one-third of the residue goes as undisposed of.

96. Where a bequest shall have been made to any child or other lineal descendant of the testator, and the legatee shall die in the lifetime of the testator, but any lineal descendant of his shall survive the testator, the bequest shall not lapse, but shall take effect as if the death of the legatee had happened immediately after the death of the testator, unless a contrary intention shall appear by the will.

When a bequest to testator's child or lineal descendant does not lapse on his death in testator's lifetime.

Illustration.

A makes his will, by which he bequeaths a sum of money to his son B for his own absolute use and benefit. B dies before A, leaving a son C who survives A, and having made his will whereby he bequeaths all his property to his widow D. The money goes to D.

Bequest to A for the benefit of B does not lapse by A's death in testator's lifetime.

97. Where a bequest is made to one person for the benefit of another, the legacy does not lapse by the death, in the testator's lifetime, of the person to whom the bequest is made.

Survivorship in case of bequest to a described class.

98. Where a bequest is made simply to a described class of persons, the thing bequeathed shall go only to such as shall be alive at the testator's death.

Exception.—If property is bequeathed to a class of persons described as standing in a particular degree of kindred to a specified individual, but their possession of it is deferred until a time later than the death of the testator, by reason of a prior bequest or otherwise, the property shall at that time go to such of them as shall be then alive, and to the representatives of any of them who have died since the death of the testator.

Illustrations.

(a) A bequeaths 1,000 rupees to "the children of B" without saying when it is to be distributed among them. B had died previous to the date of the will, leaving three children C, D and E. E died after the date of the will, but before the death of A. C and D survive A. The legacy shall belong to C and D, to the exclusion of the representatives of E.

(b) A bequeaths a legacy to the children of B. At the time of the testator's death, B has no children. The bequest is void.

(c) A lease for years of a house was bequeathed to A for his life, and after his decease to the children of B. At the death of the testator, B had two children living C and D, and he never had any other child. Afterwards during the lifetime of A, C died, leaving E his executor. D has survived A. D and E are jointly entitled to so much of the leasehold term as remains unexpired.

(d) A sum of money was bequeathed to A for her life, and after her decease to the children of B. At the death of the testator, B had two children living, C and D, and after that event two children, E and F, were born to B. C and E died in the lifetime of A, C having made a will, E having made no will. A has died, leaving D and F surviving her. The legacy is to be divided into four equal parts, one of which is to be paid to the executor of C, one to D, one to the administrator of E, and one to F.

(e) A bequeaths one-third of his lands to B for his life, and after his decease to the sisters of B. At the death of the testator, B had two sisters living, C and D, and after that event another sister, E, was born. C died during the life of B; D and E have survived B. One third of A's lands belongs to D, E, and the representatives of C in equal shares.

(f) A bequeaths 1,000 rupees to B for life, and after his death equally among the children of C. Up to the death of B, C had not had any child. The bequest after the death of B is void.

(g) A bequeaths 1,000 rupees to "all the children born or to be born" of B to be divided among them at the death of C. At the death of the testator, B has two children living, D and E. After the death of the testator but in the lifetime of C, two other children, F and G, are born to B. After the death of C another child is born to B. The legacy belongs to D, E, F and G, to the exclusion of the afterborn child of B.

(h) A bequeaths a fund to the children of B to be divided among them when the eldest shall attain majority. At the testator's death, B had one child living named C. He afterwards had two other children, named D and E. E died, but C and D were living when C attained majority. The fund belongs to C, D, and the representatives of E, to the exclusion of any child who may be born to B after C's attaining majority.

PART XII.

Of void Bequests.

Bequest to a person by a particular description who is not in existence at the testator's death.

99. Where a bequest is made to a person by a particular description, and there is no person in existence at the testator's death who answers the description, the bequest is void.

Exception.—If property is bequeathed to a person described as standing in a particular degree of kindred to a specified individual, but his possession of it is deferred until a time later than the death of the testator, by reason of a prior bequest, or otherwise; and if a person answering the description is alive at the death of the testator, or comes into existence between that event and such later time, the property shall, at such later time, go to that person, or if he be dead, to his representatives.

Illustrations.

(a) A bequeaths 1,000 rupees to the eldest son of B. At the death of the testator B has no son. The bequest is void.

(b) A bequeaths 1,000 rupees to B for life and after his death to the eldest son of C. At the death of the testator, C had no son. Afterwards, during the life of B, a son is born to C. Upon B's death, the legacy goes to C's son.

(c) A bequeaths 1,000 rupees to B for life, and after his death to the eldest son of C. At the death of the testator, C had no son; afterwards during the life of B a son, named D, is born to C. D dies, then B dies. The legacy goes to the representative of D.

(d) A bequeaths his estate of Greenacre to B for life, and at his decease to the eldest son of C. Up to the death of B, C has had no son. The bequest to C's eldest son is void.

(e) A bequeaths 1,000 rupees to the eldest son of C, to be paid to him after the death of B. At the death of the testator, C had no son, but a son is afterwards born to him during the life of B and is alive at B's death, C's son is entitled to the 1,000 rupees.

100. Where a bequest is made to a person not in existence at the time

Bequest to a person not in existence at the testator's death, subject to a prior bequest.

of the testator's death, subject to a prior bequest contained in the will, the later bequest shall be void, unless it comprises the whole of the remaining interest of the testator in the thing bequeathed.

Illustrations.

(a) Property is bequeathed to A for his life, and after his death to his eldest son for life' and after the death of the latter to his eldest son. At the time of the testator's death A has no son. Here the bequest to A's eldest son is a bequest to a person not in existence at the testator's death. It is not a bequest of the whole interest that remains to the testator. The bequest to A's eldest son for his life is void.

(b) A fund is bequeathed to A for his life, and after his death to his daughters. A survives the testator. A has daughters, some of whom were not in existence at the testator's death. The bequest to A's daughters comprises the whole interest that remains to the testator in the thing bequeathed. The bequest to A's daughters is valid.

(c) A fund is bequeathed to A for his life, and after his death to his daughters, with a direction that if any of them marries under the age of eighteen, her portion shall be settled so that it may belong to herself for life, and may be divisible among her children after her death. A has no daughters living at the time of the testator's death, but has daughters born afterwards who survive him. Here the direction for a settlement has the effect, in the case of each daughter who marries under eighteen, of substituting for the absolute bequest to her, a bequest to her merely for her life; that is to say, a bequest to a person not in existence at the time of the testator's death of something which is less than the whole interest that remains to the testator in the thing bequeathed. The direction to settle the fund is void.

(d) A bequeaths a sum of money to B for life, and directs that upon the death of B the fund shall be settled upon his daughters, so that the portion of each daughter may belong to herself for life, and may be divided among her children after her death. B has no daughters living at the time of the testator's death. In this case the only bequest to the daughters of B is contained in the direction to settle the fund, and this direction amounts to a bequest, to persons not yet born, of a life-interest in the fund, that is to say, of something which is less than the whole interest that remains to the testator in the thing bequeathed. The direction to settle the fund upon the daughters of B is void.

101 No bequest is valid whereby the vesting of the thing bequeathed

Rule against perpetuity.

may be delayed beyond the lifetime of one or more persons living at the testator's decease, and the minority of some person who shall be in existence at the expiration of that period, and to whom, if he attains full age, the thing bequeathed is to belong.

Illustrations.

(a) A fund is bequeathed to A for his life, and after his death to B for his life; and after B's death to such of the sons of B as shall first attain the age of 25. A and B survive the testator. Here the son of B who shall first attain the age of 25 may be a son born after the death of the testator; such son may not attain 25 until more than 18 years have elapsed from the death of the longer liver of A and B; and the vesting of the fund may thus be delayed beyond the lifetime of A and B, and the minority of the sons of B. The bequest after B's death is void.

(b) A fund is bequeathed to A for his life, and after his death to B for his life, and after B's death to such of B's sons as shall first attain the age of 25. B dies in the lifetime of the testator, leaving one or more sons. In this case the sons of B are persons living at the time of the testator's decease, and the time when either of them will attain 25 necessarily falls within his own lifetime. The bequest is valid.

(c) A fund is bequeathed to A for his life, and after his death to B for his life; with a direction that after B's death it shall be divided amongst such of B's children as shall attain the age of 18; but that if no child of B shall attain that age, the fund shall go to C. Here the time for the division of the fund must arrive at the latest at the expiration of 18 years from the death of B, a person living at the testator's decease. All the bequests are valid.

(d) A fund is bequeathed to trustees for the benefit of the testator's daughters, with a direction that if any of them marry under age, her share of the fund shall be settled so as to devolve after her death upon such of her children as shall attain the age of 18. Any daughter of the testator to whom the direction applies must be in existence at his decease, and any portion of the fund which may eventually be settled as directed must vest not later than 18 years from the death of the daughter whose share it was. All these provisions are valid.

Bequest to a class, some of whom may come under the rules in Sections 100 and 101.

102. If a bequest is made to a class of persons, with regard to some of whom it is inoperative by reason of the rules contained in the two last preceding sections, or either of them, such bequest shall be wholly void.

Illustrations.

(a) A fund is bequeathed to A for life, and after his death to all his children who shall attain the age of 25. A survives the testator, and has some children living at the testator's death. Each child of A's living at the testator's death must attain the age of 25 (if at all) within the limits allowed for a bequest. But A may have children after the testator's decease, some of whom may not attain the age of 25 until more than 18 years have elapsed after the decease of A. The bequest to A's children, therefore, is inoperative as to any child born after the testator's death; and as it is given to all his children as a class, it is not good as to any division of that class, but is wholly void.

(b) A fund is bequeathed to A for his life, and after his death to B, C, D and all other the children of A who shall attain the age of 25. B, C, D are children of A living at the testator's decease. In all other respects the case is the same as that supposed in Illustration (a). The mention of B, C and D by name does not prevent the bequest from being regarded as a bequest to a class, and the bequest is wholly void.

Bequest to take effect on failure of bequest void under Sections 100, 101 or 102.

103. Where a bequest is void by reason of any of the rules contained in the three last preceding sections, any bequest contained in the same will, and intended to take effect after or upon failure of such prior bequest, is also void.

Illustrations.

(a) A fund is bequeathed to A for his life, and after his death to such of his sons as shall first attain the age of 25, for his life, and after the decease of such son, to B. A and B survive the testator. The bequest to B is intended to take effect after the bequest to such of the sons of A as shall first attain the age of 25, which bequest is void under Section 101. The bequest to B is void.

(b) A fund is bequeathed to A for his life, and after his death to such of his sons as shall first attain the age of 25, and if no son of A shall attain that age, to B. A and B survive the testator. The bequest to B is intended to take effect upon failure of the bequest to such of A's sons as shall first attain the age of 25, which bequest is void under Section 101. The bequest to B is void.

104. A direction to accumulate the income arising from any property shall be void; and the property shall be disposed of as if no accumulation had been directed.

Effect of direction for accumulation.

Exception.—Where the property is immoveable, or where accumulation is directed to be made from the death of the testator, the direction shall be valid in respect only of the income arising from the property within one year next following the testator's death; and at the end of the year such property and income shall be disposed of respectively, as if the period during which the accumulation has been directed to be made had elapsed.

Illustrations.

(a) The will directs that the sum of 10,000 rupees shall be invested in Government securities, and the income accumulated for 20 years, and that the principal, together with the accumulations, shall then be divided between A, B and C. A, B and C are entitled to receive the sum of 10,000 rupees at the end of the year from the testator's death.

(b) The will directs that 10,000 rupees shall be invested, and the income accumulated until A shall marry, and shall then be paid to him. A is entitled to receive 10,000 rupees at the end of a year from the testator's death.

(c) The will directs that the rents of the farm of Sultanpur shall be accumulated for ten years, and that the accumulation shall be then paid to the eldest son of A. At the death of the testator, A has an eldest son living, named B. B shall receive at the end of one year from the testator's death the rents which have accrued during the year, together with any interest which may have been made by investing them.

(d) The will directs that the rents of the farm of Sultanpur shall be accumulated for ten years, and that the accumulations shall then be paid to the eldest son of A. At the death of the testator, A has no son. The bequest is void.

(e) A bequeaths a sum of money to B, to be paid to him when he shall attain the age of 18, and directs the interest to be accumulated till he shall arrive at that age. At A's death the legacy becomes vested in B; and so much of the interest as is not required for his maintenance and education is accumulated, not by reason of the direction contained in the will, but in consequence of B's minority.

105. No man having a nephew or niece or any nearer relative shall have power to bequeath any property to religious or charitable uses, except by a will executed not less than twelve months before his death, and deposited within six months from its execution in some place provided by law for the safe custody of the wills of living persons.

Illustration.

A having a nephew makes a bequest by a will not executed nor deposited as required—

- For the relief of poor people ;
- For the maintenance of sick soldiers ;
- For the erection or support of a hospital ;
- For the education and preferment of orphans ;
- For the support of scholars ;
- For the erection or support of a school ;
- For the building and repairs of a bridge ;
- For the making of roads ;
- For the erection or support of a church ;
- For the repairs of a church ;
- For the formation or support of a public garden.

All these bequests are void.

PART XIII.

Of the Vesting of Legacies.

106. Where by the terms of a bequest the legatee is not entitled to immediate possession of the thing bequeathed, a right to receive it at the proper time shall, unless a contrary intention appear by the will, become vested in the legatee on the testator's death, and shall pass to the legatee's representatives if he dies before that time and without having received the legacy. And in such cases the legacy is, from the testator's death said to be vested in interest.

Explanation.—An intention that a legacy to any person shall not become vested in interest in him is not to be inferred merely from a provision whereby the payment or possession of the thing bequeathed is postponed, or whereby a prior interest therein is bequeathed to some other person, or whereby the income arising from the fund bequeathed is directed to be accumulated until the time of payment arrives, or from a provision that if a particular event shall happen the legacy shall go over to another person.

Illustrations.

(a) A bequeaths to B 100 rupees, to be paid to him at the death of C. On A's death the legacy becomes vested in interest in B, and if he dies before C, his representatives are entitled to the legacy.

(b) A bequeaths to B 100 rupees to be paid to him upon his attaining the age of 18. On A's death the legacy becomes vested in interest in B.

(c) A fund is bequeathed to A for life, and after his death to B. On the testator's death the legacy to B becomes vested in interest in B.

(d) A fund is bequeathed to A until B attains the age of 18, and then to B. The legacy to B is vested in interest from the testator's death.

(e) A bequeaths the whole of his property to B upon trust to pay certain debts out of the income, and then to make over the fund to C. At A's death the gift to C becomes vested in interest in him.

(f) A fund is bequeathed to A, B and C in equal shares, to be paid to them on their attaining the age of 18, respectively, with a proviso that, if all of them die under the age of 18, the legacy shall devolve upon D. On the death of the testator, the shares vest in interest in A, B and C, subject to be divested in case A, B and C shall all die under 18, and upon the death of any of them (except the last survivor) under the age of 18, his vested interest passes, so subject, to his representatives.

107. A legacy bequeathed in case a specified uncertain event shall happen does not vest until that event happens. Date of vesting when legacy is contingent upon a specified uncertain event. A legacy bequeathed in case a specified uncertain event shall not happen does not vest until the happening of that event becomes impossible. In either case, until the condition has been fulfilled, the interest of the legatee is called contingent.

Exception.—Where a fund is bequeathed to any person upon his attaining a particular age, and the will also gives to him absolutely the income to arise from the fund before he reaches that age, or directs the income, or so much of it as may be necessary, to be applied for his benefit; the bequest of the fund is not contingent.

Illustrations.

(a) A legacy is bequeathed to D in case A, B and C shall all die under the age of 18. D has a contingent interest in the legacy until A, B and C all die under 18, or one of them attains that age.

(b) A sum of money is bequeathed to A "in case he shall attain the age of 18," or "when he shall attain the age of 18." A's interest in the legacy is contingent until the condition shall be fulfilled by his attaining that age.

(c) An estate is bequeathed to A for life, and after his death to B, if B shall then be living, but if B shall not be then living to C. A, B and C survive the testator. B and C each take a contingent interest in the estate until the event which is to vest it in one or in the other shall have happened.

(d) An estate is bequeathed as in the case last supposed. B dies in the lifetime of A and C. Upon the death of B, C acquires a vested right to obtain possession of the estate upon A's death.

(e) A legacy is bequeathed to A when she shall attain the age of 18, or shall marry under that age with the consent of B, with a proviso that if she shall not attain 18, or marry under that age with B's consent, the legacy shall go to C. A and C each take a contingent interest in the legacy. A attains the age of 18. A becomes absolutely entitled to the legacy, although she may have married under 18 without the consent of B.

(f) An estate is bequeathed to A until he shall marry, and after that event to B. B's interest in the bequest is contingent until the condition shall be fulfilled by A's marrying.

(g) An estate is bequeathed to A until he shall take advantage of the Act for the relief of insolvent debtors, and after that event to B. B's interest in the bequest is contingent until A takes advantage of the Act.

(h) An estate is bequeathed to A if he shall pay 500 rupees to B. A's interest in the bequest is contingent until he has paid 500 rupees to B.

(i) A leaves his farm of Sultanpur Khurd to B, if B shall convey his own farm of Sultanpur Buzurg to C. B's interest in the bequest is contingent until he has conveyed the latter farm to C.

(j) A fund is bequeathed to A if B shall not marry C within five years after the testator's death. A's interest in the legacy is contingent, until the condition shall be fulfilled by the expiration of the five years without B's having married C, or by the occurrence, within that period, of an event which makes the fulfilment of the condition impossible.

(k) A fund is bequeathed to A if B shall not make any provision for him by will. The legacy is contingent until B's death.

(l) A bequeaths to B 500 rupees a year upon his attaining the age of 18, and directs that the interest, or a competent part thereof, shall be applied for his benefit until he reaches that age. The legacy is vested.

(m) A bequeaths to B 500 rupees when he shall attain the age of 18, and directs that a certain sum out of another fund, shall be applied for his maintenance until he arrives at that age. The legacy is contingent.

Vesting of interest in a bequest to such members of a class as shall have attained a particular age.

108. Where a bequest is made only to such members of a class as shall have attained a particular age, a person who has not attained that age cannot have a vested interest in the legacy.

Illustration.

A fund is bequeathed to such of the children of A as shall attain the age of 18, with a direction that while any child of A shall be under the age of 18, the income of the share, to which it may be presumed he will be eventually entitled, shall be applied for his maintenance and education. No child of A who is under the age of 18 has a vested interest in the bequest.

PART XIV.

Of Onerous Bequests.

Onerous bequest.

109. Where a bequest imposes an obligation on the legatee, he can take nothing by it unless he accepts it fully.

Illustration.

A having shares in (X), a prosperous joint stock company, and also shares in (Y) a joint stock company in difficulties, in respect of which shares heavy calls are expected to be made, bequeaths to B all his shares in joint stock companies. B refuses to accept the shares in (Y). He forfeits the shares in (X).

110. Where a will contains two separate and independent bequests to the same person, the legatee is at liberty to accept one of them and refuse the other, although the former may be beneficial and the latter onerous.

One of two separate and independent bequests to same person may be accepted and the other refused.

Illustration.

A having a lease for a term of years of a house at a rent which he and his representatives are bound to pay during the term, and which is higher than the house can be let for, bequeaths to B the lease and a sum of money. B refuses to accept the lease. He shall not by this refusal forfeit the money.

PART XV.

Of Contingent Bequests.

111. Where a legacy is given if a specified uncertain event shall happen, and no time is mentioned in the will for the occurrence of that event, the legacy cannot take effect unless such event happens before the period when the fund bequeathed is payable or distributable.

Bequest contingent upon a specified uncertain event, no time being mentioned for its occurrence.

Illustrations.

(a) A legacy is bequeathed to A, and in case of his death, to B. If A survives the testator, the legacy to B does not take effect.

(b) A legacy is bequeathed to A, and in case of his death without children, to B. If A survives the testator or dies in his lifetime leaving a child, the legacy to B does not take effect.

(c) A legacy is bequeathed to A when and if he attains the age of 18, and in case of his death to B. A attains the age of 18. The legacy to B does not take effect.

(d) A legacy is bequeathed to A for life, and after his death to B, and "in case of B's death, without children," to C. The words "in case of B's death without children," are to be understood as meaning in case B shall die without children during the lifetime of A.

(e) A legacy is bequeathed to A for life, and after his death to B, and "in case of B's death," to C. The words "in case of B's death" are to be considered as meaning "in case B shall die in the lifetime of A."

- 112.** Where a bequest is made to such of certain persons as shall be surviving at some period, but the exact period is not specified, the legacy shall go to such of them as shall be alive at the time of payment or distribution, unless a contrary intention appear by the will.

Bequest to such of certain persons as shall be surviving at some period not specified.

Illustrations.

(a) Property is bequeathed to A and B, to be equally divided between them, or to the survivor of them. If both A and B survive the testator, the legacy is equally divided between them. If A dies before the testator, and B survives the testator, it goes to B.

(b) Property is bequeathed to A for life, and after his death to B and C, to be equally divided between them, or to the survivor of them. B dies during the life of A; C survives A. At A's death the legacy goes to C.

(c) Property is bequeathed to A for life, and after his death to B and C, or the survivor, with a direction that if B should not survive the testator his children are to stand in his place. C dies during the life of the testator; B survives the testator, but dies in the lifetime of A. The legacy goes to the representative of B.

(d) Property is bequeathed to A for life, and after his death to B and C, with a direction that in case either of them dies in the lifetime of A, the whole shall go to the survivor. B dies in the lifetime of A. Afterwards C dies in the lifetime of A. The legacy goes to the representative of C.

PART XVI.

Of Conditional Bequests.

Bequest upon impossible condition.

- 113.** A bequest upon an impossible condition is void.

Illustrations.

(a) An estate is bequeathed to B on condition that he shall walk one hundred miles in an hour. The bequest is void.

(b) A bequeaths 500 rupees to B on condition that he shall marry A's daughter. A's daughter was dead at the date of the will. The bequest is void.

Bequest upon illegal or immoral condition.

- 114.** A bequest upon a condition, the fulfilment of which would be contrary to law or to morality, is void.

Illustrations.

(a) A bequeaths 500 rupees to B on condition that he shall murder C. The bequest is void.

(b) A bequeaths 5,000 rupees to his niece if she will desert her husband. The bequest is void.

- 115.** Where a will imposes a condition to be fulfilled before the legatee can take a vested interest in the thing bequeathed, the condition shall be considered to have been fulfilled if it has been substantially complied with.

Fulfilment of condition precedent to the vesting of a legacy.

Illustrations.

(a) A legacy is bequeathed to A on condition that he shall marry with the consent of B, C, D, and E. A marries with the written consent of B. C is present at the marriage. D sends a present to A previous to the marriage. E has been personally informed by A of his intentions, and has made no objection. A has fulfilled the condition.

(b) A legacy is bequeathed to A on condition that he shall marry with the consent of B and D. D dies. A marries with the consent of B and C. A has fulfilled the condition.

(c) A legacy is bequeathed to A on condition that he shall marry with the consent of B, C and D. A marries in the lifetime of B, C and D, with the consent of B, and C only. A has not fulfilled the condition.

(d) A legacy is bequeathed to A on condition that he shall marry with the consent of B, C and D. A obtains the unconditional assent of B, C and D to his marriage with E. Afterwards B, C and D capriciously retract their consent. A marries E. A has fulfilled the condition.

(e) A legacy is bequeathed to A on condition that he shall marry with the consent of B, C and D. A marries without the consent of B, C and D, but obtains their consent after the marriage. A has not fulfilled the condition.

(f) A make his will, whereby he bequeaths a sum of money to B, if B shall marry with the consent of A's executors. B marries during the lifetime of A, and A afterwards expresses his approbation of the marriage. A dies. The bequest to B takes effect.

(g) A legacy is bequeathed to A if he executes a certain document within a time specified in the will. The document is executed by A within a reasonable time, but not within the time specified in the will. A has not performed the condition, and is not entitled to receive the legacy.

116. Where there is a bequest to one person and a bequest of the same thing to another, if the prior bequest shall fail, the second bequest shall take effect upon the failure of the prior bequest, although the failure may not have occurred in the manner contemplated by the testator.

Illustrations.

(a) A bequeaths a sum of money to his own children surviving him, and if they all die under 18, to B. A dies without having ever had a child. The bequest to B takes effect.

(b) A bequeaths a sum of money to B, on condition that he shall execute a certain document within three months after A's death, and if he should neglect to do so, to C. B dies in the testator's lifetime. The bequest to C takes effect.

117. Where the will shows an intention that the second bequest shall take effect only in the event of the first bequest failing in a particular manner, the second bequest shall not take effect unless the prior bequest fails in that particular manner.

Case in which the second bequest shall not take effect on failure of the first.

Illustration.

A makes a bequest to his wife, but in case she should die in his lifetime, bequeaths to B that which he had bequeathed to her. A and his wife perish together, under circumstances which make it impossible to prove that she died before him. The bequest to B does not take effect.

118. A bequest may be made to any person with the condition super-added that in case a specified uncertain event shall happen, the thing bequeathed shall go to another person; or, that in case a specified uncertain event shall not happen, the thing bequeathed shall go over to another person. In each case the ulterior bequest is subject to the rules contained in Sections 107, 108, 109, 110, 111, 112, 113, 114, 116, 117.

Bequest over, conditional upon the happening or not happening of a specified uncertain event.

Illustrations.

(a) A sum of money is bequeathed to A, to be paid to him at the age of 18, and if he shall die before he attains that age, to B. A takes a vested interest in the legacy, subject to be devested and to go to B in case A shall die under 18.

(b) An estate is bequeathed to A with a proviso that if A shall dispute the competency of the testator to make a will, the estate shall go to B. A disputes the competency of the testator to make a will. The estate goes to B.

(c) A sum of money is bequeathed to A for life, and after his death to B, but if B shall then be dead, leaving a son, such son is to stand in the place of B. B takes a vested interest in the legacy, subject to be devested if he dies leaving a son in A's lifetime.

(d) A sum of money is bequeathed to A and B, and if either should die during the life of C, then to the survivor living at the death of C. A and B die before C. The gift over cannot take effect, but the representative of A takes one-half of the money, and the representative of B takes the other half.

(e) A bequeaths to B the interest of a fund for life, and directs the fund to be divided at her death, equally among her three children, or such of them as shall be living at her death. All the children of B die in B's lifetime. The bequest over cannot take effect, but the interests of the children pass to their representatives.

119. An ulterior bequest of the kind contemplated by the last preceding section cannot take effect, unless the condition must be strictly fulfilled.

Illustrations.

(a) A legacy is bequeathed to A, with a proviso that if he marries without the consent of B, C and D, the legacy shall go to E. D dies. Even if A marries without the consent of B and C, the gift to E does not take effect.

(b) A legacy is bequeathed to A, with a proviso that if he marries without the consent of B, the legacy shall go to C. A marries with the consent of B. He afterwards becomes a widower and marries again without the consent of B. The bequest to C does not take effect.

(c) A legacy is bequeathed to A, to be paid at 18, or marriage, with a proviso that if A dies under 18, or marries without the consent of B, the legacy shall go to C. A marries under 18, without the consent of B. The bequest to C takes effect.

Original bequest not affected by invalidity of second.

120. If the ulterior bequest be not valid, the original bequest is not affected by it.

Illustrations.

(a) An estate is bequeathed to A for his life, with a condition superadded that if he shall not on a given day walk 100 miles in an hour, the estate shall go to B. The condition being void, A retains his estate as if no condition had been inserted in the will.

(b) An estate is bequeathed to A for her life, and if she do not desert her husband, to B. A is entitled to the estate during her life as if no condition had been inserted in the will.

(c) An estate is bequeathed to A for life, and, if he marries, to the eldest son of B for life. B, at the date of the testator's death, had not had a son. The bequest over is void under Section 92, and A is entitled to the estate during his life.

Bequest conditioned that it shall cease to have effect in case a specified uncertain event shall happen or not happen.

121. A bequest may be made with the condition superadded that it shall cease to have effect in case a specified uncertain event shall happen, or in case a specified uncertain event shall not happen.

Illustrations.

(a) An estate is bequeathed to A for his life, with a proviso that in case he shall cut down a certain wood, the bequest shall cease to have any effect. A cuts down the wood; he loses his life-interest in the estate.

(b) An estate is bequeathed to A, provided that, if he marries under the age of 25 without the consent of the executors named in the will, the estate shall cease to belong to him. A marries under 25 without the consent of the executors. The estate ceases to belong to him.

(c) An estate is bequeathed to A, provided that, if he shall not go to England within three years after the testator's death, his interest in the estate shall cease. A does not go to England within the time prescribed. His interest in the estate ceases.

(d) An estate is bequeathed to A, with a proviso that if she becomes a nun she shall cease to have any interest in the estate. A becomes a nun. She loses her interest under the will.

(e) A fund is bequeathed to A for life, and after his death to B, if B shall be then living, with a proviso that, if B shall become a nun, the bequest to her shall cease to have any effect. B becomes a nun in the lifetime of A. She thereby loses her contingent interest in the fund.

122. In order that a condition that a bequest shall cease to have

Such condition must not be invalid under Section 107. effect may be valid, it is necessary that the event to which it relates be one which could legally constitute the condition of a bequest as contemplated by the one hundred and seventh section.

123. Where a bequest is made with a condition superadded that unless

Result of legatee rendering impossible or indefinitely postponing an act for which no time is specified, and on the non-performance of which the subject-matter is to go over.

the legatee shall perform a certain act, the subject-matter of the bequest shall go to another person, or the bequest shall cease to have effect; but no time is specified for the performance of the act; if the legatee takes any step which renders impossible or indefinitely postpones the performance of the act required; the legacy shall go as if the legatee had died without performing such act.

Illustrations.

(a) A bequest is made to A with a proviso that unless he enters the army the legacy shall go over to B. A takes holy orders, and thereby renders it impossible that he should fulfil the condition. B is entitled to receive the legacy.

(b) A bequest is made to A with a proviso that it shall cease to have any effect if he does not marry B's daughter. A marries a stranger, and thereby indefinitely postpones the fulfilment of the condition. The bequest ceases to have effect.

124. Where the will requires an act to be performed by the legatee

Performance of condition, precedent or subsequent, within specified time.

of the bequest is to go

Further time allowed in case of fraud.

within a specified time, either as a condition to be fulfilled before the legacy is enjoyed, or as a condition upon the non-fulfilment of which the subject-matter of the bequest is to go over to another person, or the bequest is to cease to have effect; the act must be performed within the time specified, unless the performance of it be prevented by fraud, in which case such further time shall be allowed as shall be requisite to make up for the delay caused by such fraud.

PART XVII.

Of Bequests with Directions as to Application or Enjoyment.

Direction that funds be employed in a particular manner following an absolute bequest of the same to or for the benefit of any person.

125. Where a fund is bequeathed absolutely to or for the benefit of any person, but the will contains a direction that it shall be applied or enjoyed in a particular manner, the legatee shall be entitled to receive the fund as if the will had contained no such direction.

Illustration.

A sum of money is bequeathed towards purchasing a country residence for A, or to purchase an annuity for A, or to purchase a commission in the army for A, or to place A in any business. A chooses to receive the legacy in money. He is entitled to do so.

126. Where a testator absolutely bequeaths a fund, so as to sever it

Direction that a mode of enjoyment of absolute bequest is to be restricted, to secure a specified benefit for the legatee.

from his own estate, but directs that the mode of enjoyment of it by the legatee shall be restricted so as to secure a specified benefit for the legatee; if that benefit cannot be obtained for the legatee, the fund belongs to him as if the will had contained no such direction.

Illustrations.

(a) A bequeaths the residue of his property to be divided equally among his daughters, and directs that the shares of the daughters shall be settled upon themselves respectively for life, and be paid to their children after their death. All the daughters die unmarried: the representatives of each daughter are entitled to her share of the residue.

(b) A directs his trustees to raise a sum of money for his daughter, and he then directs that they shall invest the fund, and pay the income arising from it to her during her life, and divide the principal among her children after her death. The daughter dies without having ever had a child. Her representatives are entitled to the fund.

127. Where a testator does not absolutely bequeath a fund, so as to

Bequest of a fund for certain purposes, some of which cannot be fulfilled.

sever it from his own estate, but gives it for certain purposes, and part of those purpose cannot be fulfilled, the fund, or so much of it as has not been exhausted upon the object contemplated by the will, remains a part of the estate of the testator.

Illustrations.

(a) A directs that his trustees shall invest a sum of money in a particular way and shall pay the interest to his son for life, and at his death shall divide the principal among his children; the son dies without having ever had a child. The fund, after the son's death, belongs to the estate of the testator.

(b) A bequeaths the residue of his estate to be divided equally among his daughters, with a direction that they are to have the interest only during their lives, and that at their decease the fund shall go to their children. The daughters have no children. The fund belongs to the estate of the testator.

PART XVIII.

Of Bequests to an Executor.

128. If a legacy is bequeathed to a person who is named an executor of the will, he shall not take the legacy unless he proves the will or otherwise manifests an intention to act as executor.

Legatee named as executor cannot take unless he shows intention to act as executor.

Illustration.

A legacy is given to A, who is named an executor. A orders the funeral according to the directions contained in the will, and dies a few days after the testator, without having proved the will. A has manifested an intention to act as executor.

PART XIX.

Of Specific Legacies.

129. Where a testator bequeaths to any person a specified part of his property, which is distinguished from all other parts of his property, the legacy is said to be specific.

Specific legacy defined

Illustrations.

(a) A bequeaths to B—

“The diamond ring presented to him by C.”

“His gold chain.”

“A certain bale of wool.”

“A certain piece of cloth.”

“All his household goods which shall be in or about his dwelling-house in M. Street, in Calcutta, at the time of his death.”

“The sum of 1,000 rupees in a certain chest.”

“The debt which B owes him.”

“All his bills, bonds and securities belonging to him, lying in his lodgings in Calcutta.”

“All his furniture in his house in Calcutta.”

“All his goods on board a certain ship then lying in the river Hooghly.”

“2,000 rupees which he has in the hands of C.”

“The money due to him on the bond of D.”

“His mortgage on the Rampur Factory.”

“One-half of the money owing to him on his mortgage of Rampur Factory.”

“1,000 rupees, being part of a debt due to him from C.”

“His capital stock of 1,000%. East India Stock.”

“His promissory notes of the Government of India, for 10,000 rupees in their 4 percent loan.”

All such sums of money as his executors may, after his death, receive in respect of the debt due to him from the insolvent firm of D and Company.”

“All the wine which he may have in his cellar at the time of his death.”

“Such of his horses as B may select.”

“All his shares in the Bank of Bengal.”

“All the shares in the Bank of Bengal which he may possess at the time of his death.”

“All the money which he has in the 5½ per cent. loan of the Government of India.”

“All the Government securities he shall be entitled to at the time of his decease.”

Each of these legacies is specific.

(b). A having Government promissory notes for 10,000 rupees, bequeaths to his executors “Government promissory notes for 10,000 rupees in trust to sell” for the benefit of B.

The legacy is specific.

(c) A having property at Benares, and also in other places, bequeaths to B all his property at Benares.

The legacy is specific.

(d) A bequeaths to B—

His house in Calcutta.

His zamindari of Rampur.

His taluk of Ramnagar.

His lease of the indigo factory of Sulkea.

An annuity of 500 rupees out of the rents of his zamindari of W.

A directs his zamindari of X to be sold, and the proceeds to be invested for the benefit of B.

Each of these bequests is specific.

(e) A by his will charges his zamindari of Y with an annuity of 1,000 rupees to C during his life, and subject to this charge B bequeaths the zamindari to D.

Each of these bequests is specific.

(f) A bequeaths a sum of money—

To buy a house in Calcutta for B.

To buy an estate in zillah Faridpur for B.

To buy a diamond ring for B.

To buy a horse for B.

To be invested in shares in the Bank of Bengal for B.

To be invested in Government securities for B.

A bequeaths to B—

"A diamond ring."

"A horse."

"10,000 rupees worth of Government securities."

"An annuity of 500 rupees."

"2,000 rupees to be paid in cash."

"So much money as will produce 5,000 rupees 4 per cent. Government securities."

These bequests are not specific.

(g) A having property in England and property in India, bequeaths a legacy to B, and directs that, it shall be paid out of the property which he may leave in India. He also bequeaths a legacy to C, and directs that it shall be paid out of the property which he may leave in England.

No one of these legacies is specific.

Bequest of a sum certain where the stocks, &c., in which it is invested are described.

130. Where a sum certain is bequeathed, the legacy is not specific merely because the stocks, funds, or securities in which it is invested are described in the will.

Illustration.

A bequeaths to B—

"10,000 rupees of his funded property."

"10,000 rupees of his property now invested in shares of the East Indian Railway Company."

"10,000 rupees, at present secured by mortgage of Rampur Factory."

No one of these legacies is specific.

131. Where a bequest is made in general terms, of a certain amount of any kind of stock, the legacy is not specific merely because the testator was at the date of his will possessed of stock of the specified kind, to an equal or greater amount than the amount bequeathed.

Bequest of stock where the testator had at the date of his will an equal or greater amount of stock of the same kind.

Illustration.

A bequeaths to B 5,000 rupees five per cent. Government securities. A had at the date of the will five per cent. Government securities for 5,000 rupees.

The legacy is not specific.

Bequest of money where it is not to be paid until some part of the testator's property shall have been disposed of in a certain way.

132. A money legacy is not specific merely because the will directs its payment to be postponed until some part of the property of the testator shall have been reduced to a certain form, or remitted to a certain place.

Illustration.

A bequeaths to B 10,000 rupees, and directs that this legacy shall be paid as soon as A's property in India shall be realized in England.

The legacy is not specific.

133. Where a will contains a bequest of the residue of the testator's property along with an enumeration of some items of property not previously bequeathed, the articles enumerated shall not be deemed to be specifically bequeathed.

When enumerated articles are not to be deemed to be specifically bequeathed.

134. Where property is specifically bequeathed to two or more persons in succession, it shall be retained in the form in which the testator left it, although it may be of such a nature that its value is continually decreasing.

Retention, in form, of specific bequest to several persons in succession.

Illustrations.

(a) A having a lease of a house for a term of years, 15 of which were unexpired at the time of his death, has bequeathed the lease to B for his life, and after B's death to C. B is to enjoy the property as A left it, although, if B lives for 15 years, C can take nothing under the bequest.

(b) A having an annuity during the life of B, bequeaths it to C for his life, and after C's death to D. C is to enjoy the annuity as A left it, although, if B dies before D, D can take nothing under the bequest.

135. Where property comprised in a bequest to two or more persons in succession, is not specifically bequeathed, it shall, in the absence of any direction to the contrary, be sold, and the proceeds of the sale shall be invested in such securities as the High Court may, by any general rule to be made from time to time, authorize or direct, and the fund thus constituted shall be enjoyed by the successive legatees according to the terms of the will.

Sale and investment of proceeds of property bequeathed to two or more persons in succession.

Illustration.

A, having a lease for a term of years, bequeaths "all his property" to B for life, and after B's death, to C. The lease must be sold and the proceeds invested as stated in the text, and the annual income arising from the fund is to be paid to B for life. At B's death the capital of the fund is to be paid to C.

Where deficiency of assets to pay legacies, specific legacy not to abate with general legacies.

136. If there be a deficiency of assets to pay legacies, a specific legacy is not liable to abate with the general legacies.

PART XX.

Of Demonstrative Legacies.

137. Where a testator bequeaths a certain sum of money or a certain quantity of any other commodity, and refers to a particular fund or stock so as to constitute the same the primary fund or stock out of which payment is to be made, the legacy is said to be demonstrative.

Demonstrative legacy defined.

Explanation.—The distinction between a specific legacy and a demonstrative legacy consists in this, that where specified property is given to the legatee, the legacy is specific; where the legacy is directed to be paid out of specified property, it is demonstrative.

Illustrations.

(a) A bequeaths to B 1,000 rupees, being part of a debt due to him from W. He also bequeaths to C 1,000 rupees to be paid out of the debt due to him from W. The legacy to B is specific; the legacy to C is demonstrative.

(b) A bequeaths to B—

"Ten bushels of the corn which shall grow in his field of Greenacre."

"80 chests of the indigo which shall be made at his factory of Rampur."

"10,000 rupees out of his five per cent. promissory notes of the Government of India."

An annuity of 500 rupees "from his funded property."

"1,000 rupees out of the sum of 2,000 rupees due to him by C."

A bequeaths to B an annuity, and directs it to be paid out of the rents arising from his taluk of Ramnaggar.

A bequeaths to B—

"10,000 rupees out of his estate at Ramnaggar," or charges it on his estate at Ramnaggar.

"10,000 rupees being his share of the capital embarked in a certain business."

Each of these bequests is demonstrative.

138. Where a portion of a fund is specifically bequeathed and a legacy is directed to be paid out of the same fund, the portion specifically bequeathed shall first be paid to the legatee, and the demonstrative legacy shall be paid out of the residue of the fund, and, so far as the residue shall be deficient, out of the general assets of the testator.

Illustration.

A bequeaths to B 1,000 rupees, being part of a debt due to him from W. He also bequeaths to C 1,000 rupees to be paid out of the debt due to him from W. The debt due to A from W is only 1,500 rupees; of these 1,500 rupees, 1,000 rupees belong to B, and 500 rupees are to be paid to C. C is also to receive 500 rupees out of the general assets of the testator.

PART XXI.

Of Ademption of Legacies.

139. If anything which has been specifically bequeathed does not belong to the testator at the time of his death, or has been converted into property of a different kind, the legacy is adeemed; that is, it cannot take effect by reason of the subject-matter having been withdrawn from the operation of the will.

Illustrations.

(a) A bequeaths to B—

"The diamond ring presented to him by C."

"His gold chain."

"A certain bale of wool."

"A certain piece of cloth."

"All his household goods which shall be in or about his dwelling house in M Street, in Calcutta, at the time of his death."

A, in his lifetime,—

Sells or gives away the ring.

Converts the chain into a cup.

Converts the wool into cloth.

Makes the cloth into a garment.

Takes another house into which he removes all his goods.

Each of these legacies is adeemed.

(b) A bequeaths to B—

"The sum of 1,000 rupees in a certain chest."

"All the horses in his stable."

At the death of A, no money is found in the chest, and no horses in the stable.

The legacies are adeemed.

(c) A bequeaths to B certain bales of goods. A takes the goods with him on a voyage.

The ship and goods are lost at sea, and A is drowned.

The legacy is adeemed.

140. A demonstrative legacy is not adeemed by reason that the property on which it is charged by the will does not exist at the time of the death of the testator, or has been converted into property of a different kind ; but it shall in such case be paid out of the general assets of the testator.

Non-adeemption of demonstrative legacy.

Adeemption of specific bequest of right to receive something from a third party.

141. Where the thing specifically bequeathed is the right to receive something of value from a third party, and the testator himself receives it, the bequest is adeemed.

Illustrations.

(a) A bequeaths to B—

- “ The debt which C owes him.”
- “ 2,000 rupees which he has in the hands of D.”
- “ The money due to him on the bond of E.”
- “ His mortgage on the Rampur factory.”

All these debts are extinguished in A's lifetime, some with and some without his consent. All the legacies are adeemed.

(b) A bequeaths to B—

- “ His interest in certain policies of life assurance.”

A in his lifetime receives the amount of the policies. The legacy is adeemed.

Adeemption *pro tanto* by testator's receipt of part of entire thing specifically bequeathed.

142. The receipt by the testator of a part of an entire thing specifically bequeathed shall operate as an adeemption of the legacy to the extent of the sum so received.

Illustration.

A bequeaths to B “ the debt due to him by C.” The debt amounts to 10,000 rupees. C pays to A 5,000 rupees, the one-half of the debt. The legacy is revoked by adeemption, so far as regards the 5,000 rupees received by A.

143. If a portion of an entire fund or stock be specifically bequeathed, the receipt by the testator of a portion of the fund or stock shall operate as an adeemption only to the extent of the amount so received ; and the residue of the fund or stock shall be applicable to the discharge of the special legacy.

Adeemption *pro tanto* by testator's receipt of portion of an entire fund of which a portion has been specifically bequeathed.

Illustration.

A bequeaths to B one-half of the sum of 10,000 rupees due to him from W. A in his lifetime receives 6,000 rupees, part of the 10,000 rupees. The 4,000 rupees which are due from W to A at the time of his death belong to B under the specific bequest.

144. Where a portion of a fund is specifically bequeathed to one legatee, and a legacy charged on the same fund is bequeathed to another legatee ; if the testator receive a portion of that fund, and the remainder of the fund is insufficient to pay both the specific and the demonstrative legacy, the specific legacy shall be paid first, and the residue (if any) of the fund shall be applied so far as it will extend in payment of the demonstrative legacy, and the rest of the demonstrative legacy shall be paid out of the general assets of the testator.

Order of payment where a portion of a fund is specifically bequeathed to one legatee, and a legacy charged on the same fund to another, and the testator having received a portion of that fund, the remainder is insufficient to pay both legacies.

Illustration.

A bequeaths to B 1,000 rupees, part of the debt of 2,000 rupees due to him from W. He also bequeaths to C 1,000 rupees to be paid out of the debt due to him from W. A afterwards

receives 500 rupees, part of that debt, and dies leaving only 1,500 rupees due to him from W. Of these 1,500 rupees, 1,000 rupees belong to B, and 500 rupees are to be paid to C. C is also to receive 500 rupees out of the general assets of the testator.

Ademption where stock, specifically bequeathed, does not exist at testator's death.

145. Where stock which has been specifically bequeathed does not exist at the testator's death, the legacy is adeemed.

Illustration.

A bequeaths to B—

" His capital stock of 1,000*l.* in East India Stock."

" His promissory notes of the Government of India for 10,000 rupees in their 4 per cent. loan."

A sells the stock and the notes.

The legacies are adeemed.

Ademption *pro tanto* where stock, specifically bequeathed, exists in part only at testator's death.

146. Where stock which has been specifically bequeathed, does only in part exist at the testator's death, the legacy is adeemed so far as regards that part of the stock which has ceased to exist.

Illustration.

A bequeaths to B—

" His 10,000 rupees in the 5½ per cent. loan of the Government of India."

A sells one-half of his 10,000 rupees in the loan in question.

One-half of the legacy is adeemed.

Non-ademption of specific bequest of goods described as connected with a certain place, by reason of removal.

147. A specific bequest of goods under a description connecting them with a certain place, is not adeemed by reason that they have been removed from such place from any temporary cause, or by fraud, or without the knowledge or sanction of the testator.

Illustrations.

A bequeaths to B " all his household goods which shall be in or about his dwelling-house in Calcutta at the time of his death." The goods are removed from the house to save them from fire. A dies before they are brought back.

A bequeaths to B " all his household goods which shall be in or about his dwelling-house in Calcutta at the time of his death." During A's absence upon a journey, the whole of the goods are removed from the house. A dies without having sanctioned their removal.

Neither of these legacies is adeemed.

148. The removal of the thing bequeathed from the place in which it is stated in the will to be situated, does not constitute an ademption, where the place is only referred to in order to complete the description of what the testator meant to bequeath.

When removal of thing bequeathed does not constitute ademption.

Illustrations.

A bequeaths to B all the bills, bonds, and other securities for money belonging to him then lying in his lodgings in Calcutta. At the time of his death, these effects had been removed from his lodgings in Calcutta.

A bequeaths to B all his furniture then in his house in Calcutta. The testator has a house at Calcutta and another at Chinsurah, in which he lives alternately, being possessed of one set of furniture only, which he removes with himself to each house. At the time of his death, the furniture is in the house at Chinsurah.

A bequeaths to B all his goods on board a certain ship then lying in the river Hooghly. The goods are removed by A's directions to a warehouse, in which they remain at the time of A's death.

No one of these legacies is revoked by ademption.

149. Where the thing bequeathed is not the right to receive something

When the thing bequeathed is a valuable to be received by the testator from a third person; and the testator himself, or his representative, receives it.

mass of his property, the legacy is adeemed.

of value from a third person, but the money or other commodity which shall be received from the third person by the testator himself or by his representatives, the receipt of such sum of money or other commodity by the testator shall not constitute an

ademption; but if he mixes it up with the general

Illustration.

A bequeaths to B whatever sum may be received from his claim on C. A receives the whole of his claim on C and sets it apart from the general mass of his property. The legacy is not adeemed.

150. Where a thing specifically bequeathed undergoes a change

Change by operation of law of subject of specific bequest between date of will and testator's death.

was held, the legacy is

between the date of the will and the testator's death, and the change takes place by operation of law, or in the course of execution of the provisions of any legal instrument under which the thing bequeathed is not adeemed by reason of such change.

Illustrations.

A bequeaths to B "all the money which he has in the 5½ per cent. loan of the Government of India."

The securities for the 5½ per cent. loan are converted during A's lifetime into 5 per cent stock.

A bequeaths to B the sum of 2,000*l.* invested in Consols in the names of trustees for A.

The sum of 2,000*l.* is transferred by the trustees into A's own name.

A bequeaths to B the sum of 10,000 rupees in promissory notes of the Government of India which he has power, under his marriage settlement, to dispose of by will. Afterwards, in A's lifetime, the fund is converted into Consols by virtue of an authority contained in the settlement.

No one of these legacies has been adeemed.

151. Where a thing specifically bequeathed undergoes a change

Change of subject without testator's knowledge.

between the date of the will and the testator's death, and the change takes place without the knowledge or sanction of the testator, the legacy is not adeemed.

Illustration.

A bequeaths to B "all his 3 per cent. Consols." The Consols are, without A's knowledge, sold by his agent, and the proceeds converted into East India Stock. This legacy is not adeemed.

Stock specifically bequeathed, lent to a third party on condition that it shall be replaced.

152. Where stock which has been specifically bequeathed is lent to a third party on condition that it shall be replaced, and it is replaced accordingly, the legacy is not adeemed.

Stock specifically bequeathed, sold but replaced and belonging to the testator at his death.

153. Where stock specifically bequeathed is sold, and an equal quantity of the same stock is afterwards purchased and belongs to the testator at his death, the legacy is not adeemed.

PART XXII.*Of the Payment of Liabilities in respect of the Subject of a Bequest.***154. Where property specifically bequeathed is subject at the death of**

Non-liability of executor to exonerate specific legacies.

the testator to any pledge, lien, or incumbrance, created by the testator himself or by any person under whom he claims; then, unless a contrary intention

appears by the will, the legatee, if he accepts the bequest, shall accept it subject to such pledge or incumbrance, and shall (as between himself and the testator's estate) be liable to make good the amount of such pledge or incumbrance. A contrary intention shall not be inferred from any direction which the will may contain for the payment of the testator's debts generally.

Explanation.—A periodical payment in the nature of land-revenue or in the nature of rent is not such an incumbrance as is contemplated by this section.

Illustrations.

(a) A bequeaths to B the diamond ring given him by C. At A's death the ring is held in pawn by D, to whom it has been pledged by A. It is the duty of A's executors, if the state of the testator's assets will allow them, to allow B to redeem the ring.

(b) A bequeaths to B a zamindari which at A's death is subject to a mortgage for 10,000 rupees, and the whole of the principal sum, together with interest to the amount of 1,000 rupees, is due at A's death. B, if he accepts the bequest, accepts it subject to this charge, and is liable, as between himself and A's estate, to pay the sum of 11,000 rupees thus due.

Completion of testator's title to things bequeathed to be at cost of his estate.

155. Where any thing is to be done to complete the testator's title to the thing bequeathed, it is to be done at the cost of the testator's estate.

Illustrations.

(a) A having contracted in general terms for the purchase of a piece of land at a certain price, bequeaths it to B, and dies before he has paid the purchase-money. The purchase-money must be made good out of A's assets.

(b) A having contracted for the purchase of a piece of land for a certain sum of money, one-half of which is to be paid down, and the other half secured by mortgage of the land, bequeaths it to B, and dies before he has paid or secured any part of the purchase-money. One half of the purchase-money must be paid out of A's assets.

156. Where there is a bequest of any interest in immoveable property, in respect of which payment in the nature of land revenue or in the nature of rent has to be made periodically, the estate of the testator shall (as between such estate and the legatee) make good such payments or a proportion of them up to the day of his death.

Exoneration of legatee's immoveable property for which land revenue or rent is payable periodically.

Illustration.

A bequeaths to B a house, in respect of which 365 rupees are payable annually by way of rent. A pays his rent at the usual time, and dies 25 days after. A's estate shall make good 25 rupees in respect of the rent.

157. In the absence of any direction in the will, where there is a specific bequest of stock in a Joint Stock Company, if any call or other payment is due from the testator at the time of his death in respect of such stock, such call or payment shall, as between the testator's estate and the legatee, be borne by such estate; but if any call or other payment shall, after the testator's death, become due in respect of such stock, the same shall, as between the testator's estate and the legatee, be borne by the legatee, if he accepts the bequest.

Exoneration of specific legatee's stock in a Joint Stock Company.

Illustrations.

(a) A bequeathed to B his shares in a certain railway. At A's death there was due from him the sum of 5*l.* in respect of each share, being the amount of a call which had been duly made, and the sum of 5*s.* in respect of each share, being the amount of interest which had accrued due in respect of the call. These payments must be borne by A's estate.

(b) A has agreed to take 50 shares in an intended Joint Stock Company, and has contracted to pay up 5*l.* in respect of each share, which sum must be paid before his title to the shares can be completed. A bequeaths these shares to B. The estate of A must make good the payments which were necessary to complete A's title.

(c) A bequeaths to B his shares in a certain railway. B accepts the legacy. After A's death, a call is made in respect of the shares. B must pay the call.

(d) A bequeaths to B his shares in a Joint Stock Company. B accepts the bequest. Afterwards the affairs of the Company are wound up, and each shareholder is called upon for contribution. The amount of the contribution must be borne by the legatee.

(e) A is the owner of ten shares in a Railway Company. At a meeting held during his lifetime a call is made of 3*l.* per share, payable by three instalments. A bequeaths his shares to B, and dies between the day fixed for the payment of the second instalment and without having paid the first instalment. A's estate must pay the first instalment, and B, if he accepts the legacy, must pay the remaining instalments.

PART XXIII.

Of Bequests of Things described in General Terms.

158. If there be a bequest of something described in general terms, the executor must purchase for the legatee what may reasonably be considered to answer the description.

Bequest of things described in general terms.

Illustrations.

(a) A bequeaths to B a pair of carriage horses, or a diamond ring. The executor must provide the legatee with such articles, if the state of the assets will allow it.

(b) A bequeaths to B "his pair of carriage horses." A had no carriage horses at the time of his death. The legacy falls.

PART XXIV.

Of Bequests of the Interest or Produce of a Fund.

159. Where the interest or produce of a fund is bequeathed to any person, and the will affords no indication of an intention that the enjoyment of the bequest should be of limited duration, the principal as well as the interest shall belong to the legatee.

Bequest of the interest or produce of a fund.

Illustrations.

(a) A bequeaths to B the interest of his 5 per cent. promissory notes of the Government of India. There is no other clause in the will affecting those securities. B is entitled to A's 5 per cent. promissory notes of the Government of India.

(b) A bequeaths the interest of his 5½ per cent. promissory notes of the Government of India to B for his life and after his death to C. B is entitled to the interest of the notes during his life, and C is entitled to the notes upon B's death.

(c) A bequeaths to B the rents of his lands at X. B is entitled to the lands.

PART XXV.

Of Bequests of Annuities.

160. Where an annuity is created by will, the legatee is entitled to receive it for his life only, unless a contrary intention appears by the will. And this rule shall not be varied by the circumstance that the annuity is directed to be paid out of the property generally, or that a sum of money is bequeathed to be invested in the purchase of it.

Annuity created by will payable for life only, unless a contrary intention appears by the will.

Illustrations.

(a) A bequeaths to B 500 rupees a year. B is entitled during his life to receive the annual sum of 500 rupees.

(b) A bequeaths to B the sum of 500 rupees monthly. B is entitled during his life to receive the sum of 500 every month.

(c) A bequeaths an annuity of 500 rupees to B for life, and on B's death to C. B is entitled to an annuity of 500 rupees during his life. C, if he survives B, is entitled to an annuity of 500 rupees from B's death until his own death.

- 161.** Where the will directs that an annuity shall be provided for any person out of the proceeds of property, or out of property generally, or where money is bequeathed to be invested in the purchase of an annuity for any person, on the testator's death the legacy vests in interest in the legatee, and he is entitled at his option to have an annuity purchased for him, or to receive the money appropriated for that purpose by the will.

Period of vesting where will directs that an annuity be provided out of the proceeds of property, or out of property generally, or where money is bequeathed to be invested in the purchase of an annuity.

Illustrations.

(a) A by his will directs that his executors shall out of his property purchase an annuity of 1,000 rupees for B. B is entitled at his option to have an annuity of 1,000 rupees for his life purchased for him, or to receive such a sum as will be sufficient for the purchase of such an annuity.

(b) A bequeaths a fund to B for his life, and directs that after B's death it shall be laid out in the purchase of an annuity for C. B and C survive the testator. C dies in B's life time. On B's death the fund belongs to the representative of C.

- 162.** Where an annuity is bequeathed, but the assets of the testator are not sufficient to pay all the legacies given by the will, the annuity shall abate in the same proportion as the other pecuniary legacies given by the will.

Abatement of annuity.

- 163.** Where there is a gift of an annuity and a residuary gift, the whole of the annuity is to be satisfied before any part of the residue is paid to the residuary legatee, and, if necessary, the capital of the testator's estate shall be applied for that purpose.

Where there is a gift of an annuity and a residuary gift, the whole of the annuity to be first satisfied.

PART XXVI.

Of Legacies to Creditors and Portioners.

- 164.** Where a debtor bequeaths a legacy to his creditor, and it does not appear from the will that the legacy is meant as a satisfaction of the debt, the creditor shall be entitled to the legacy as well as to the amount of the debt.

Creditor *primâ facie* entitled to legacy as well as debt.

- 165.** Where a parent who is under obligation by contract to provide a portion for a child, fails to do so, and afterwards bequeaths a legacy to the child, and does not intimate by his will that the legacy is meant as a satisfaction of the portion, the child shall be entitled to receive the legacy as well as the portion.

Child *primâ facie* entitled to legacy as well as portion.

Illustration.

A by articles entered into in contemplation of his marriage with B, covenanted that he would pay to each of the daughters of the intended marriage a portion of 20,000 rupees on her marriage. This covenant having been broken, A bequeaths 20,000 rupees to each of the married daughters of himself and B. The legatees are entitled to the benefit of this bequest in addition to their portions.

- 166.** No bequest shall be wholly or partially deemed by a subsequent provision made by settlement or otherwise for the legatee.

No ademption by subsequent provision for legatee.

Illustrations.

(a) A bequeaths 20,000 rupees to his son B. He afterwards gives to B the sum of 20,000 rupees. The legacy is not thereby adempted.

(b) A bequeaths 40,000 rupees to B, his orphan niece, whom he had brought up from her infancy. Afterwards, on the occasion of B's marriage, A settles upon her the sum of 30,000 rupees. The legacy is not thereby diminished.

PART XXVII.

Of Election.

167. Where a man, by his will, professes to dispose of something which he has no right to dispose of, the person to whom the thing belongs shall elect either to confirm such disposition or to dissent from it, and in the latter case he shall give up any benefits which may have been provided for him by the will.

168. The interest so relinquished shall devolve as if it had not been disposed of by the will in favor of the legatee, subject, nevertheless, to the charge of making good to the disappointed legatee the amount or value of the gift attempted to be given to him by the will.

169. This rule will apply whether the testator does or does not believe that which he professes to dispose of by his will to be his own.

Illustrations.

(a) The farm of Sultanpur was the property of C. A bequeathed it to B, giving a legacy of 2,000 rupees to C. C has elected to retain his farm of Sultanpur, which is worth 800 rupees. C forfeits his legacy of 1,000 rupees of which 800 rupees goes to B, and the remaining 200 rupees falls into the residuary bequest, or devolves according to the rules of intestate succession, as the case may be.

(b) A bequeaths an estate to B in case B's elder brother (who is married and has children) shall leave no issue living at his death. A also bequeaths to C a jewel, which belongs to B. B must elect to give up the jewel, or to lose the estate.

(c) A bequeaths to B 1,000 rupees, and to C an estate which will under a settlement belong to B if his elder brother (who is married and has children) shall leave no issue living at his death. B must elect to give up the estate, or to lose the legacy.

(d) A, a person of the age of 18 domiciled in British India, but owning real property in England, to which C is heir-at-law, bequeaths a legacy to C, and subject thereto devises and bequeaths to B "all his property, whatsoever and wheresoever," and dies under 21. The real property in England does not pass by the will. C may claim his legacy without giving up the real property in England.

170. A bequest for a man's benefit is, for the purpose of election, the same thing as a bequest made to himself.

Illustration.

The farm of Sultanpur Khurd being the property of B, A bequeathed it to C; and bequeathed another farm called Sultanpur Buzurg to his own executors, with a direction that it should be sold and the proceeds applied in payment of B's debts. B must elect whether he will abide by the will or keep his farm of Sultanpur Khurd in opposition to it.

171. A person taking no benefit directly under the will, but deriving a benefit under it indirectly, is not put to his election.

Illustration.

The lands of Sultanpur are settled upon C for life, and after his death upon D, his only child. A bequeaths the lands of Sultanpur to B, and 1,000 rupees to C. C dies intestate, shortly after the testator, and without having made any election. D takes out administration to C, and as administrator elects on behalf of C's estate to take under the will. In that capacity he receives the legacy of 1,000 rupees, and accounts to B for the rents of the lands of Sultanpur which accrued after the death of the testator and before the death of C. In his individual character he retains the lands of Sultanpur in opposition to the will.

A person taking under a will in his individual capacity, may in another character elect to take in opposition to it.

172. A person who in his individual capacity takes a benefit under the will, may in another character elect to take in opposition to the will.

Illustration.

The estate of Sultanpur is settled upon A for life, and after his death upon B. A leaves the estate of Sultanpur to D, and 2,000 rupees to B, and 1,000 rupees to C, who is B's only child. B dies intestate, shortly after the testator, without having made an election. C takes out administration to B, and as administrator elects to keep the estate of Sultanpur in opposition to the will and to relinquish the legacy of 2,000 rupees. C may do this, and yet claim his legacy of 1,000 rupees under the will.

Exception to the six last rules.—Where a particular gift is expressed in the will to be in lieu of something belonging to the legatee, which is also in terms disposed of by the will, if the legatee claims that thing, he must relinquish the particular gift, but he is not bound to relinquish any other benefit given to him by the will.

Illustration.

Under A's marriage settlement his wife is entitled, if she survives him, to the enjoyment of the estate of Sultanpur during her life.

A by his will bequeaths to his wife an annuity of 200*l.* during her life in lieu of her interest in the estate of Sultanpur, which estate he bequeaths to his son. He also gives his wife a legacy of 1,000*l.* The widow elects to take what she is entitled to under the settlement. She is bound to relinquish the annuity, but not the legacy of 1,000*l.*

173. Acceptance of a benefit given by the will constitutes an election

When acceptance of a benefit given by a will constitutes an election to take under the will.

by the legatee to take under the will, if he has knowledge of his right to elect, and of those circumstances which would influence the judgment of a reasonable man in making an election, or if he

waives inquiry into the circumstances.

Illustrations.

(a) A is owner of an estate called Sultanpur Khurd, and has a life interest in another estate called Sultanpur Buzurg, to which upon his death his son B will be absolutely entitled. The will of A gives the estate of Sultanpur Khurd to B, and the estate of Sultanpur Buzurg to C. B, in ignorance of his own right to the estate of Sultanpur Buzurg, allows C to take possession of it, and enters into possession of the estate of Sultanpur Khurd. B has not confirmed the bequest of Sultanpur Buzurg to C.

(b) B the eldest son of A, is the possessor of an estate called Sultanpur. A bequeaths Sultanpur to C, and to B the residue of A's property. B having been informed by A's executors that the residue will amount to 5,000 rupees, allows C to take possession of Sultanpur. He afterwards discovers that the residue does not amount to more than 500 rupees. B has not confirmed the bequest of the estate of Sultanpur to C.

174. Such knowledge or waiver of inquiry shall, in the absence of

Presumption arising from enjoyment by legatee for two years.

evidence to the contrary, be presumed if the legatee has enjoyed for two years the benefits provided for him by the will without doing any act to express dissent.

175. Such knowledge or waiver of inquiry may be inferred from any act of the legatee which renders it impossible to

Confirmation of bequest by act of legatee.

place the persons interested in the subject-matter of the bequest in the same condition as if such act had not been done.

Illustration.

A bequeaths to B an estate to which C is entitled, and to C a coal mine. C takes possession of the mine and exhausts it. He has thereby confirmed the bequest of the estate to B.

176. If the legatee shall not, within one year after the death of the testator, signify to the testator's representatives his intention to confirm or to dissent from the will, the representatives shall, upon the expiration of that period, require him to make his election; and if he does not comply with such requisition within a reasonable time after he has received it, he shall be deemed to have elected to confirm the will.

When testator's representatives may call upon legatee to elect.

Effect of non-compliance with their request within a reasonable time.

177. In case of disability the election shall be postponed until the disability ceases; or until the election shall be made by some competent authority.

Postponement of election in case of disability.

PART XXVIII.

Of Gifts in Contemplation of Death.

178. A man may dispose, by gift made in contemplation of death, of any moveable property which he could dispose of by will. A gift is said to be made in contemplation of death where a man, who is ill and expects to die shortly of his illness, delivers to another the possession of any moveable property to keep as a gift in case the donor shall die of that illness. Such a gift may be resumed by the giver. It does not take effect if he recovers from the illness during which it was made; nor if he survives the person to whom it was made.

Property transferable by gift made in contemplation of death.

When a gift is said to be made in contemplation of death.

Such gift resumable.

When it fails.

Illustrations.

(a) A being ill, and in expectation of death, delivers to B, to be retained by him in case of A's death—

A watch.

A bond granted by C to A.

A bank note.

A promissory note of the Government of India endorsed in blank.

A bill of exchange endorsed in blank.

Certain mortgage deeds.

A dies of the illness during which he delivered these articles.

B is entitled to—

The watch.

The debt secured by C's bond.

The bank note.

The promissory note of the Government of India.

The bill of exchange.

The money secured by the mortgage deeds.

(b) A being ill, and in expectation of death, delivers to B the key of a trunk, or the key of a warehouse in which goods of bulk belonging to A are deposited, with the intention of giving him the control over the contents of the trunk, or over the deposited goods, and desires him to keep them in case of A's death. A dies of the illness during which he delivered these articles. B is entitled to the trunk and its contents, or to A's goods of bulk in the warehouse.

(c) A being ill, and in expectation of death, puts aside certain articles in separate parcels, and marks upon the parcels respectively the names of B and C. The parcels are not delivered during the life of A. A dies of the illness during which he set aside the parcels. B and C are not entitled to the contents of the parcels.

PART XXIX.

Of Grant of Probate and Letters of Administration.

179. The executor or administrator, as the case may be, of a deceased person, is his legal representative for all purposes, and all the property of the deceased person vests in him as such.

Character and property of executor or administrator as such.

180. When a will has been proved and deposited in a Court of competent jurisdiction, situated beyond the limits of the province, whether in the British dominions, or in a foreign country, and a properly authenticated copy of the will is produced, letters of administration may be granted with a copy of such copy annexed.

Administration with copy annexed of authenticated copy of will proved abroad.

181. Probate can be granted only to an executor appointed by will.

Probate to be granted to executor appointed by will.

281. The appointment may be express or by necessary implication.

Appointment express or implied.

Illustrations.

(a) A wills that C be his executor if B will not. B is appointed executor by implication.

(b) A gives a legacy to B and several legacies to other persons, among the rest to his daughter-in-law, C, and adds, "but should the within-named C be not living, I do constitute and appoint B my whole and sole executrix." C is appointed executrix by implication.

(c) A appoints several persons executors of his will and codicils, and his nephew residuary legatee, and in another codicil are these words:—"I appoint my nephew my residuary legatee to discharge all lawful demands against my will and codicils, signed of different dates." The nephew is appointed an executor by implication.

183. Probate cannot be granted to any person who is a minor or is of unsound mind, nor to a married woman without the previous consent of her husband.

Persons to whom probate cannot be granted.

184. When several executors are appointed, probate may be granted to them all simultaneously or at different times.

Grant of probate to several executors simultaneously or at different times.

Illustration.

A is an executor of B's will by express appointment, and A an executor of it by implication. Probate may be granted to A and C at the same time, or to A first and then to C, or to C first and then to A.

185. If a codicil be discovered after the grant of probate, a separate probate of that codicil may be granted to the executor, if it in no way repeals the appointment of executors made by the will. If different executors are appointed by the codicil, the probate of the will must be revoked, and a new probate granted of the will and the codicil together.

Separate probate of codicil discovered after grant of probate.

Procedure when different executors are appointed by the codicil.

186. When probate has been granted to several executors, and one of them dies, the entire representation of the testator accrues to the surviving executor or executors.

Accrual of representation to surviving executor.

187. No right as executor or legatee can be established in any Court of Justice, unless a Court of competent jurisdiction within the province shall have granted probate of the will under which the right is claimed, or shall have granted letters of administration under the one hundred and eightieth section.

No right as executor or legatee can be established, unless probate or letters of administration shall have been granted by a competent Court.

NOTE.—As regards the Administrator General, the High Court at the presidency town shall be deemed to be a Court of competent jurisdiction within the meaning of Sections 187 and 190 of this Act.—(Act II of 1874, Section 14).

188. Probate of a will when granted establishes the will from the death of the testator, and renders valid all intermediate acts of the executor as such.

Probate establishes the will from testator's death.

Persons to whom letters of administration may not be granted.

No right to intestate's property can be established, unless administration previously granted by a competent Court.

189. Letters of administration cannot be granted to any person who is a minor or is of unsound mind, nor to a married woman without the previous consent of her husband.

190. No right to any part of the property of a person who has died intestate can be established in any Court of justice, unless letters of administration have first been granted by a Court of competent jurisdiction.

See note to Section 187.

From what period letters of administration entitle administrator to intestate's rights.

191. Letters of administration entitle the administrator to all rights belonging to the intestate as effectually as if the administration had been granted at the moment after his death.

Acts of administrator not validated by letters of administration.

192. Letters of administration do not render valid any intermediate acts of the administrator tending to the diminution or damage of the intestate's estate.

193. When a person appointed an executor has not renounced the executorship, letters of administration shall not be granted to any other person until a citation has been issued, calling upon the executor to accept or renounce his executorship; except that when one or more of several executors have proved a will, the Court may, on the death of the survivor of those who have proved, grant letters of administration without citing those who have not proved.

Grant of administration where executor has not renounced.
Exception.

194. The renunciation may be made orally in the presence of the Judge, or by a writing signed by the person renouncing, and when made shall preclude him from ever thereafter applying for probate of the will appointing him executor.

From and effect of renunciation of executorship.

195. If the executor renounce, or fail to accept the executorship within the time limited for the acceptance or refusal thereof, the will may be proved and letters of administration, with a copy of the will annexed, may be granted to the person who would be entitled to administration in case of intestacy.

Procedure where executor renounces or fails to accept within the time limited.

196. When the deceased has made a will, but has not appointed an executor, or when he has appointed an executor who is legally incapable or refuses to act, or has died before the testator, or before he has proved the will, or when the executor dies after having proved the will but before he has administered all the estate of the deceased, an universal or a residuary legatee may be admitted to prove the will, and letters of administration with the will annexed may be granted to him of the whole estate, or of so much thereof as may be unadministered.

Grant of administration to universal or residuary legatee.

197. When a residuary legatee who has a beneficial interest survives the testator, but dies before the estate has been fully administered, his representative has the same right to administration with the will annexed as such residuary legatee.

Right to administration of representative of deceased residuary legatee.

198. When there is no executor and no residuary legatee or representative of a residuary legatee, or he declines or is incapable to act, or cannot be found, the person or persons who would be entitled to the administration of the estate of the deceased if he had died intestate, or any other legatee having a beneficial interest, or a creditor, may be admitted to prove the will, and letters of administration may be granted to him or them accordingly.

Grant of administration where there is no executor, nor residuary legatee, nor representative of such legatee.

199. Letters of administration with the will annexed shall not be granted to any legatee other than an universal or a residuary legatee, until a citation has been issued and published in the manner hereinafter mentioned calling on the next of kin to accept or refuse letters of administration.

Citation to be issued before grant of administration to any legatee other than universal or residuary.

200. When the deceased has died intestate, those who are connected with him either by marriage or by consanguinity, are entitled to obtain letters of administration of his estate and effects in the order and according to the rules hereinafter stated.

Order in which connections by marriage or consanguinity are entitled to administration.

201. If the deceased has left a widow, administration shall be granted to the widow unless the Court shall see cause to exclude her, either on the ground of some personal disqualification, or because she has no interest in the estate of the deceased.

Administration to be granted to widow unless Court see cause to exclude her.

Illustrations.

(a) The widow is a lunatic, or has committed adultery, or has been barred by her marriage settlement of all interest in her husband's estate; there is cause for excluding her from the administration.

(b) The widow has married again since the decease of her husband; this is not good cause for her exclusion.

202. If the Judge think proper, he may associate any person or persons with the widow in the administration who would be entitled solely to the administration, if there were no widow.

Persons associated with widow in administration.

203. If there be no widow, or if the Court see cause to exclude the widow, it shall commit the administration to the person or persons who would be beneficially entitled to the estate according to the rules for the distribution of an intestate's estate; provided that, when the mother of the deceased shall be one of the class of persons so entitled, she shall be solely entitled to administration.

Grant of administration where no widow, or widow excluded.

Proviso.

Deceased's kindred of equal degree, equally entitled to administration.

204. Those who stand in equal degree of kindred to the deceased, are equally entitled to administration.

Right of widower to administration of wife's estate.

205. The husband, surviving his wife, has the same right of administration of her estate as the widow has in respect of the estate of her husband.

206. When there is no person connected with the deceased by marriage or consanguinity who is entitled to letters of administration, and willing to act, they may be granted to a creditor.

Grant of administration to a creditor.

207. Where the deceased has left property in British India, letters of administration must be granted according to the foregoing rules, although he may have been a domiciled inhabitant of a country in which the law relating to testate and intestate succession differs from the law of British India.

Where deceased has left property in British India, administration must be granted according to the foregoing rules.

PART XXX.

Of Limited Grants.

(a). Grants limited in Duration.

208. When the will has been lost or mislaid since the testator's death, or has been destroyed by wrong or accident and not by any act of the testator, and a copy of the draft of the will has been preserved, probate may be granted of such copy or draft, limited until the original or a properly authenticated copy of it be produced.

Probate of copy or draft of lost will.

209 When the will has been lost or destroyed and no copy has been made nor the draft preserved, probate may be granted of its contents, if they can be established by evidence.

Probate of contents of lost or destroyed will.

209. When the will is in the possession of a person residing out of the province in which application for probate is made, who has refused or neglected to deliver it up, but a copy has been transmitted to the executor, and it is necessary for the interests of the estate that probate should be granted without waiting for the arrival of the original, probate may be granted of the copy so transmitted, limited until the will or an authenticated copy of it be produced.

Probate of copy where original exists.

210. Where no will of the deceased is forthcoming, but there is reason to believe that there is a will in existence, letters of administration may be granted, limited until the will or an authenticated copy of it, be produced.

Administration until the will be produced.

(b). Grants for the Use and Benefit of others having Right.

211. When any executor is absent from the province in which application is made, and there is no executor within the province willing to act, letters of administration, with the will annexed, may be granted to the attorney of the absent executor, for the use and benefit of his principal, limited until he shall obtain probate or letters of administration granted to himself.

Administration, with the will annexed, to attorney of absent executor.

Administration, with the will annexed, to attorney of an absent person, who, if present, would be entitled to administer.

212. When any person to whom, if present, letters of administration with the will annexed might be granted, is absent from the province, letters of administration with the will annexed may be granted to his attorney, limited as above-mentioned.

214. When a person entitled to administration in case of intestacy is absent from the province, and no person equally entitled is willing to act, letters of administration may be granted to the attorney of the absent person, limited as before mentioned.

Administration to attorney of absent person entitled to administer in case of intestacy.

215. When a minor is sole executor or sole residuary legatee, letters of administration, with the will annexed, may be granted to the legal guardian of such minor or to such other person as the Court shall think fit until the minor shall have completed the age of eighteen years, at which period and not before, probate of the will shall be granted to him.

Administration during minority.

216. When there are two or more minor executors and no executor who has attained majority, or two or more residuary legatees and no residuary legatee who has attained majority, the grant shall be limited until one of them shall have completed the age of eighteen years.

Administration until one of several minor executors or residuary legatees attains majority.

217 If a sole executor or a sole universal or residuary legatee, or a person who would be solely entitled to the estate of the intestate according to the rule for the distribution of intestates' estates, be a lunatic, letters of administration, with or without the will annexed, as the case may be, shall be granted to the person to whom the care of his estate has been committed by competent authority, or if there be no such person, to such other person as the Court may think fit to appoint, for the use and benefit of the lunatic until he shall become of sound mind.

Administration for use and benefit of lunatic *ius habens*.

218. Pending any suit touching the validity of the will of a deceased person, or for obtaining or revoking any probate or any grant of letters of administration, the Court may appoint an administrator of the estate of such deceased person, who shall have all the rights and powers of a general administrator, other than the right of distributing such estate, and every such administrator shall be subject to the immediate control of the Court and shall act under its direction.

Administration *pendente lite*.

(c). *For Special Purposes.*

219. If an executor be appointed for any limited purpose specified in the will, the probate shall be limited to that purpose, and if he should appoint an attorney to take administration on his behalf, the letters of administration with the will annexed shall accordingly be limited.

Probate limited to purpose specified in the will.

220. If an executor appointed generally give an authority to an attorney to prove a will on his behalf, and the authority is limited to a particular purpose, the letters of administration with the will annexed shall be limited accordingly.

Administration with the will annexed limited to a particular purpose.

221. Where a person dies, leaving property of which he was the sole or surviving trustee, or in which he had no beneficial interest on his own account, and leaves no general representative, or one who is unable or unwilling to act as such, letters of administration, limited to such property, may be granted to the person beneficially interested in the property, or to some other person on his behalf.

Administration limited to property in which a person has a beneficial interest.

222. When it is necessary that the representative of a person deceased be made a party to a pending suit, and the executor or person entitled to administration is unable or unwilling to act, letters of administration may be granted to the nominee of a party in such suit, limited for the purpose of representing the deceased in the said suit, or in any other cause or suit which may be commenced in the same or in any other Court between the parties, or any other parties, touching the matters at issue in the said cause or suit, and until a final decree shall be made therein and carried into complete execution.

223. If at the expiration of twelve months from the date of any probate or letters of administration, the executor or administrator to whom the same has been granted is absent from the province within which the Court that has granted the probate or letters of administration is situate, it shall be lawful for such Court to grant, to any person whom it may think fit, letters of administration limited to the purpose of becoming and being made a party to a suit to be brought against the executor or administrator, and carrying the decree which may be made therein into effect.

224. In any case in which it may appear necessary for preserving the property of a deceased person, the Court within whose district any of the property is situate, may grant to any person whom such Court may think fit, letters of administration limited to the collection and preservation of the property of the deceased, and giving discharges for debts due to his estate, subject to the directions of the Court.

225. When a person has died intestate, or leaving a will of which there is no executor willing and competent to act, or where the executor shall, at the time of the death of such person, be resident out of the province, and it shall appear to the Court to be necessary or convenient to appoint some person to administer the estate or any part thereof other than the person who under ordinary circumstances would be entitled to a grant of administration, it shall be lawful for the Judge, in his discretion, having regard to consanguinity, amount of interest, the safety of the estate, and probability that it will be properly administered, to appoint such person as he shall think fit to be administrator, and in every such case letters of administration may be limited or not as the Judge shall think fit.

(d). Grants with Exception.

226. Whenever the nature of the case requires that an exception be made, probate of a will, or letters of administration with the will annexed, shall be granted subject to such exception.

227. Whenever the nature of the case requires that an exception be made, letters of administration shall be granted subject to such exception.

(e). Grants of the Rest.

228. Whenever a grant, with exception, of probate or letters of administration, with or without the will annexed, has been made, the person entitled to probate or administration of the remainder of the deceased's estate may take a grant of probate or letters of administration, as the case may be, of the rest of the deceased's estate.

Probate or administration of the rest.

(f). Grants of Effects Unadministered.

229. If the executor to whom probate has been granted have died leaving a part of the testator's estate unadministered, a new representative may be appointed for the purpose of administering such part of the estate.

Grant of effects unadministered.

230. In granting letters of administration of an estate not fully administered, the Court shall be guided by the same rules as apply to original grants, and shall grant letters of administration to those persons only to whom original grants might have been made.

Rules as to grants of effects unadministered.

231. When a limited grant has expired by effluxion of time, or the happening of the event or contingency on which it was limited, and there is still some part of the deceased's estate unadministered, letters of administration shall be granted to those persons to whom original grants might have been made.

Administration when a limited grant has expired, and there is still some part of the estate unadministered.

(g). Alteration in Grants.

232. Errors in names and descriptions, or in setting forth the time and place of the deceased's death, or the purpose in a limited grant, may be rectified by the Court, and the grant of probate or letters of administration may be altered and amended accordingly.

What errors may be rectified by the Court.

Procedure where codicil discovered after grant of administration with will annexed.

233. If, after grant of letters of administration with the will annexed, a codicil be discovered, it may be added to the grant on due proof and identification, and the grant altered and amended accordingly.

(h). Revocation of Grants.

234. The grant of probate or letters of administration may be revoked or annulled for just cause.

Revocation or annulment, for just cause, of grant of probate or administration.

Explanation.—Just cause is—1st, that the proceedings to obtain the grant were defective in substance; 2nd, that the grant was obtained fraudulently by making a false suggestion, or by concealing from the Court something material to the case; 3rd, that the grant was obtained by means of an untrue allegation of a fact essential in point of law to justify the grant, though such allegation was made in ignorance or inadvertently; 4th, that the grant has become useless and inoperative through circumstances.

"Just cause."

Illustrations.

- (a) The Court by which the grant was made had no jurisdiction.
- (b) The grant was made without citing parties who ought to have been cited.
- (c) The will of which probate was obtained was forged or revoked.

(d) A obtained letters of administration to the estate of B, as his widow, but it has since transpired that she was never married to him.

(e) A has taken administration to the estate of B as if he had died intestate, but a will has since been discovered.

(f) Since probate was granted, a later will has been discovered.

(g) Since probate was granted, a codicil has been discovered, which revokes or adds to the appointment of executors under the will.

(h) The person to whom probate was, or letters of administration were, granted, has subsequently become of unsound mind.

PART XXXI.

Of the Practice in granting and revoking Probates and Letters of Administration.

Jurisdiction of District Judge in granting and revoking probates.

235. The District Judge shall have jurisdiction in granting and revoking probates and letters of administration in all cases within his district.

235 A. The High Court may, from time to time, appoint such judicial officers within any district as it thinks fit, to act for the District Judge as Delegates to grant probate and letters of administration in non-contentious cases, within such local limits as it may from time to time prescribe: Provided that in the case of High Courts not established by Royal Charter, such appointment be made with the previous sanction of the Local Government. Persons so appointed shall be called "District Delegates."

NOTE.—This section is added by Act VI of 1881, S. 2.

632. The District Judge shall have the like powers and authority in relation to the granting of probate and letters of administration, and all matters connected therewith, as are by law vested in him in relation to any civil suit or proceeding depending in his Court.

237. The District Judge may order any person to produce and bring into Court any paper or writing being or purporting to be testamentary, which may be shown to be in the possession or under the control of such person; and if it be not shown that any such paper or writing is in the possession or under the control of such person, but there is reason to believe that he has the knowledge of any such paper or writing, the Court may direct such person to attend for the purpose of being examined respecting the same, and such person shall be bound to answer such questions as may be put to him by the Court, and, if so ordered, to produce and bring in such paper or writing, and shall be subject to the like punishment under the Indian Penal Code, in case of default in not attending or in not answering such questions or not bringing in such paper or writing, as he would have been subject to in case he had been a party to a suit, and had made such default, and the costs of the proceeding shall be in the discretion of the Judge.

238. The proceedings of the Court of the District Judge in relation to the grant of probate and letters of administration shall, except as hereinafter otherwise provided, be regulated so far as the circumstances of the case will admit by the Code of Civil Procedure.

239. Until probate be granted of the will of a deceased person, or an

When and how District Judge is to interfere for the protection of property.

administrator of his estate be constituted, the District Judge within whose jurisdiction any part of the property of the deceased person is situate, is authorized and required to interfere for the protection of such property, at the instance of any person claiming to be interested therein, and in all other cases where the Judge considers that the property incurs any risk of loss or damage; and for that purpose, if he shall see fit, to appoint an officer to take and keep possession of the property.

240. Probate of the will or letters of administration to the estate of a

Probate or administration may be granted by District Judge, when testator or intestate at his death, had a fixed dwelling or any property within the jurisdiction.

deceased person may be granted by the District Judge under the seal of his Court, if it shall appear by a petition verified as hereinafter mentioned, of the person applying for the same, that the testator or intestate, as the case may be, at the time of his decease, had a fixed place of abode, or any property moveable or immoveable, within the jurisdiction of the Judge.

241. When the application is made to the Judge of a district in which

When application is made to the Judge of a district in which the deceased had no fixed abode.

the deceased had no fixed abode at the time of his death, it shall be in the discretion of the Judge to refuse the application, if in his judgment it could be disposed of more justly or conveniently in another district, or where the application is for letters of administration, to grant them absolutely, or limited to the property within his own jurisdiction.

241 A. Probate and letters of administration may, upon application

Probate and letters of administration may be granted by Delegate.

for that purpose to any District Delegate, be granted by him in any case in which there is no contention, if it appears by petition (verified as hereinafter mentioned) that the testator or intestate, as the case may be, at the time of his death resided within the jurisdiction of such Delegate.

NOTE.—This section is added by Act VI of 1881, S. 3.

242. Probate or letters of administration shall have effect over all the

Conclusiveness of probate or letters of administration.

property and estate, moveable or immoveable, of the deceased, throughout the province in which the same is granted, and shall be conclusive as to the representative title against all debtors of the deceased, and all persons holding property which belongs to him and shall afford full indemnity to all debtors paying their debts, and all persons delivering up such property to the person to whom such probate or letters of administration shall have been granted.

Provided that probates and letters of administration granted by a High

Effect of unlimited probates, &c., granted by High Court.

Court after the first day of April 1875, shall, unless otherwise directed by the grant, have like effect throughout the whole of British India.

NOTE.—The above proviso has been inserted by Act XIII of 1875, Section 2.

242A. Whenever a grant of probate or letters of administration is

Transmission of certificate by High Court granting probate, &c., to other Courts.

made by a High Court with such effect as last aforesaid, the Registrar or such other officer as the High Court making the grant appoints in this behalf, shall send to each of the other High Courts a certificate to the following effect :—

I., A. B., Registrar [or as the case may be] of the High Court of Judicature at [or as the case may be], hereby certify that on the day of 187 , the High Court of Judicature at [or as the case may be] granted probate of the will [or letters of administration of the estate] of J., D., late of deceased, to E. F., of and G. H., of and that such probate [or letters] has [or have] effect over all the property of the deceased throughout the whole of British India ; and such certificate shall be filed by the High Court receiving the same.

NOTES.—(a). The above section is inserted by Act XIII of 1875, S. 3.

(b). It is enacted by Act II of 1877 that the expression 'High Court' in Sections 242, 242 A., and 246 A shall mean, and be deemed to have always meant—

(a) a High Court for the time being established under the twenty-fourth of Victoria, chapter 104 :

(b) the Chief Court of the Punjab :

(c) the Court of the Recorder of Rangoon.

243. Application for probate or letters of administration, if made and verified in the manner hereinafter mentioned, shall be conclusive for the purpose of authorizing the grant of probate or administration, and no such grant shall be impeached by reason that the testator or intestate had no fixed place of abode, or no property within the district at the time of his death, unless by a proceeding to revoke the grant if obtained by a fraud upon the Court.

244. Application for probate shall be made by a petition distinctly written in English or in the language in ordinary use in proceedings before the Court in which the application is made, with the will annexed, and stating the time of the testator's death, that the writing annexed is his last will and testament, that it was duly executed, and that the petitioner is the executor therein named ; and in addition to these particulars, when the application is to the District Judge, the petition shall further state that the deceased at the time of his death had his fixed place of abode, or had some property, moveable or immoveable, situate within the jurisdiction of the Judge, and when the application is to a District Delegate the petition shall further state that the deceased at the time of his death resided within the jurisdiction of such Delegate.

NOTE.—As amended by Act VI of 1881, S. 4.

245. In cases wherein the will is written in any language other than English or than that in ordinary use in proceedings before the Court, there shall be a translation thereof annexed to the petition by a translator of the Court, if the language be one for which a translator is appointed ; or if the will be in any other language, then by any person competent to translate the same, in which case such translation shall be verified by that person in the following manner :—"I (A B) do declare that I read and perfectly understand the language and character of the original, and that the above is a true and accurate translation thereof."

246. Applications for letters of administration shall be made by petition distinctly written as aforesaid, and stating the time and place of the deceased's death, the family or other relatives of the deceased, and their respective residences, the right in which the petitioner claims, that the deceased left

some property within the jurisdiction of the District Judge or District Delegate to whom the application is made, and the amount of assets which are likely to come to the petitioner's hands, and when the application is to a District Delegate the petition shall further state that the deceased at the time of his death resided within the jurisdiction of such Delegate.

NOTE.—As amended by Act VI of 1881, S. 4.

246A. Every person applying to a High Court for probate of a will or letters of administration of an estate, intended to have effect throughout British India, shall state in his petition, in addition to the matters respectively required by Section 244 and Section 246 of this Act, that to the best of his belief no application has been made to any other High Court for a probate of the same will or for letters of administration of the same estate, intended to have such effect as last aforesaid, or, where any such application has been made, the High Court to which it was made, the person or persons by whom it was made, and the proceedings (if any) had thereon. And the High Court to which any application is made under the proviso to Section 242 of this Act may, if it think fit, reject the same.

NOTE.—See note to Section 242 A. The above section has been inserted by Act XIII of 1875, S. 4.

247. The petition for probate or letters of administration shall in all cases be subscribed by the petitioner and his pleader, if any, and shall be verified by the petitioner in the following manner or to the like effect :—

“ I (A B), the petitioner in the above petition, declare that what is stated therein is true to the best of my information and belief.”

248. When the application is for probate, the petition shall also be verified by at least one of the witnesses to the will (when procurable), in the manner or to the effect following :—

“ I (C D), one of the witnesses to the last will and testament of the testator mentioned in the above petition, declare that I was present and saw the said testator affix his signature (or mark) thereto (as the case may be), (or that the said testator acknowledged the writing annexed to the above petition to be his last will and testament in my presence).”

249. If any petition or declaration which is hereby required to be verified shall contain any averment which the person making the verification knows or believes to be false, such person shall be subject to punishment according to the provisions of the law for the time being in force for the punishment of giving or fabricating false evidence.

250. In all cases it shall be lawful for the District Judge or District Delegate, if he shall think proper, to examine the petitioner in person, upon oath or solemn affirmation, and also to require further evidence of the due execution of the will, or the right of the petitioner to the letters of administration, as the case may be, and to issue citations calling upon all persons claiming to have any interest in the estate of the deceased to come and see the proceedings before the grant of probate or letters of administration. The citation shall be fixed up in some conspicuous part of the Court-house and

Punishment for making false averment in petition or declaration.

District Judge &c., may examine petitioner in person and require further evidence, and issue citations to inspect the proceedings.

Publication of citation.

also in the office of the Collector of the district, and otherwise published or made known in such manner as the Judge or District Delegate issuing the same may direct.

251. Caveats against the grant of probate or administration may be lodged with the District Judge or a District Delegate ; and immediately on any caveat being lodged with any District Delegate, he shall send a copy thereof to the District Judge ; and immediately on a caveat being entered with the District Judge, a copy thereof shall be given to the District Delegate, if any, within whose jurisdiction it is alleged the deceased resided at the time of his death, and to any other Judge or District Delegate to whom it may appear to the District Judge expedient to transmit the same.

NOTE.—As amended by Act VI of 1881, S. 5.

252. The caveat shall be to the following effect:—“Let nothing be done in the matter of the estate of *A B*, late of deceased, who died on the day of at , without notice to *C D* of ”.

Form of caveat.

253. No proceeding shall be taken on a petition for probate or letters of administration after a caveat against the grant thereof has been entered with the Judge or officer to whom the application has been made, or notice thereof has been given of its entry with some other Delegate, until after such notice to the person by whom the same has been entered as the Court shall think reasonable.

NOTE.—As amended by Act VII of 1881, S. 6.

253A. A District Delegate shall not grant probate or letters of administration in any case in which there is contention as to the grant, or in which it otherwise appears to him that probate or letters of administration ought not to be granted in his Court.

District Delegate when not to grant probate or administration.

Explanation.—By ‘contention’ is understood the appearance of any one in person, or by his recognized agent, or by a pleader duly appointed to act on his behalf to oppose the proceeding.

253B. In every case in which there is no contention, but it appears to the District Delegate doubtful whether the probate or letters of administration should or should not be granted, or when any question arises in relation to the grant, or application for the grant, of any probate or letters of administration, the District Delegate may, if he thinks proper, transmit a statement of the matter in question to the District Judge, who may direct the District Delegate to proceed in the matter of the application, according to such instructions as to the Judge may seem necessary, or may forbid any further proceeding by the District Delegate in relation to the matter of such application, leaving the party applying for the grant in question to make application to the Judge.

Power to transmit statement to District Judge in doubtful cases where no contention.

253C. In every case in which there is contention, or the District Delegate is of opinion that the probate or letters of administration should be refused in his Court, the petition, with any documents that may have been filed therewith, shall be returned to the person by whom the application was made, in order that the

Procedure where there is contention, or District Delegate thinks probate or letters of administration should be refused in his Court.

same may be presented to the District Judge ; unless the District Delegate thinks it necessary, for the purposes of justice, to impound the same, which he is hereby authorized to do ; and in that case the same shall be sent by him to the District Judge.

NOTE.—The last three sections are inserted by Act VI of 1881, S. 7.

254. When it shall appear to the Judge or District Delegate that Grant of probate to be under seal of the Court. probate of a will should be granted, he will grant the same under the seal of his Court in manner following—

“ I, , Judge of the district of (or Delegate appointed for granting probate or letters of administration in (*here insert the limits of the Delegate's jurisdiction*)), hereby make Form of such grant. known that on the day of in the year the last will of late of , a copy whereof is hereunto annexed, was proved and registered before me, and that administration of the property and credits of the said deceased, and in any way concerning his will, was granted to the executor in the said will named, he having undertaken to administer the same and to make a true inventory of the said property and credits, and to exhibit the same at or before the expiration of a year next ensuing, and also to render a true account thereof.”

255. And wherever it shall appear to the District Judge or District Delegate that letters of administration to the estate of a person deceased, with or without a copy of the Grant of letters of administration to be under seal of Court. will annexed, should be granted, he will grant the same under the seal of his Court in manner following :—

“ I, , Judge of the district of (or Delegate appointed for granting probate or letters of administration in (*here insert the limits of the Delegate's jurisdiction*)) hereby make known that on the day of letters of administration (with or without the will annexed, *as the case may be*) of the property and credits of , late of , deceased, were granted to , the father (or *as the case may be*) of the deceased, he having undertaken to administer the same, and to make a true inventory of the said property and credits, and to exhibit the same in this Court at or before the expiration of one year next ensuing, and also to render a true account thereof.”

NOTE.—The two last sections are as amended by Act VI of 1881, S. 8.

256. Every person to whom any grant of administration shall be Administration-bond. committed shall give a bond to the Judge of the District Court to enure for the benefit of the Judge for the time being, with one or more surety or sureties, engaging for the due collection, getting in, and administering the estate of the deceased, which bond shall be in such form as the Judge shall from time to time by any general or special order direct.

257. The Court may, on application made by petition, and on being Assignment of administration-bond. satisfied that the engagement of any such bond has not been kept, and upon such terms as to security, or providing that the money received be paid into Court, or otherwise as the Court may think fit, assign the same to some person, his executors or administrators, who shall thereupon be entitled to sue on the said bond in his own name as if the same had been originally given to him instead of to the Judge of the Court, and shall be entitled to recover thereon as trustee for all persons interested, the full amount recoverable in respect of any breach thereof.

Probate not to be granted until after seven days, and letters of administration until after fourteen days, from the testator's or intestate's death.

258. No probate of a will shall be granted until after the expiration of seven clear days, and no letters of administration shall be granted until after the expiration of fourteen clear days from the day of the testator or intestate's death.

259. Every District Judge or District Delegate shall file and preserve all original wills of which probate or letters of administration with the will annexed may be granted by him among the records of his Court until some public registry for wills is established; and the Local Government shall make regulations for the preservation and inspection of the wills so filed as aforesaid.

NOTES.—(a). The provisions of this section are not affected by anything contained in the Registration Act (See Act III of 1877, S. 46).

(b).—In modification of Punjab Government Notification No. 937, dated 20th June 1867, the Hon'ble the Lieutenant-Governor, in exercise of the powers conferred upon him by Section 259 of Act X of 1865 (*The Indian Succession Act, 1865*), is pleased to prescribe the following Regulations for the preservation and inspection of Wills:—

I.—Every District Judge shall file and preserve all original Wills of which probate or letters of administration with the Will annexed may be granted by him.

II.—For the preservation of such Wills each District will be supplied with a fire-proof box, which shall be kept for safe custody in the Government Treasury.

III.—When probate or letters of administration have been granted by the District Judge as aforesaid, the Will shall be detached from the file of proceedings relating to the grant of such probate or letters of administration, and after being endorsed with the name of the Testator, the date of the Will, the date of granting probate or letters of administration, the names and description of the persons to whom probate or letters of administration have been granted, the number of the file relating to the Will in the General District Register, and the number of the Will in the Register of Deposited Wills, shall be deposited in the fire-proof box.

IV.—The District Judge shall keep in English a Register of Deposited Wills, which shall be in the following form, and shall contain the particulars endorsed on the deposited Wills. An alphabetical Index shall be prepared at the end of each year to the entries made in the Register:—

Serial No. of Will.	Number of file in District General Register.	Date of execution of Will.	Date of granting probate, or letters of administration.	Persons to whom probate or letters of administration have been granted.	REMARKS.

V.—Any person desirous of inspecting the Register of Deposited Wills shall be permitted to do so on his presenting an application to that effect to the District Judge. Such application shall be written on a stamp of the value of one rupee, and shall set forth the name, residence and occupation of the applicant with his reason for desiring to inspect the Register.

VI.—Any person desirous of inspecting a deposited Will shall be permitted to do so on his presenting an application to that effect to the District Judge, accompanied with a fee of one rupee. The application shall be written on a stamp paper of the value of one rupee, and shall set forth the particulars specified in the preceding rule.

VII.—The inspection of the Register of deposited Wills, or of a deposited Will, may be made between the hours of 11 A. M. and 3 P. M. on every day except authorized holidays, and shall take place in the presence of the District Judge or of an officer exercising the powers of a Subordinate Judge or Munsiff of the 1st Class, deputed by the Deputy Commissioner for the purpose. The applicant shall not be permitted while making the inspection to have pen and ink in his possession, but he may be allowed the use of pencil and paper for the purpose of taking notes.

VIII.—Any person desirous of obtaining a copy of a deposited Will shall present an application to that effect to the District Judge, accompanied with a fee of five rupees. Such application shall be written on a stamp paper of the value of eight annas, and shall contain the name, residence and occupation of the applicant, with the interest, if any, which he has in the Will, or his reason for applying for a copy. The copy shall be made at the expense of the applicant, and shall be certified under the seal and signature of the District Judge.

IX.—Applications for inspections or copies shall be filed with the proceedings connected with the grant of probate or letters of administration of the Will to which they relate; and in the Register of deposited Wills an entry shall be made in the column headed "Remarks:"

" Inspected by _____ on _____ 18— ,"
or " copy given to _____ , " as the case may be.

X.—All fees realized under these Regulations shall be at the disposal of the District Judge, and shall be appropriated to purposes connected with the preservation and inspection of the Wills under his custody.

XI.—The foregoing rules shall apply *mutatis mutandis* to Wills of which probate or letters of administration with the Will annexed may be granted by the Chief Court of the Punjab.

(Notification No. 490 S., dated 20th June 1885, Punjab Gazette of 2nd July 1885, Part I, p. 461).

260. After any grant of probate or letters of administration, no other

Grantee of probate or letters of administration shall alone have power to sue, &c., until the same shall have been revoked.

than the person to whom the same shall have been granted shall have power to sue or prosecute any suit, or otherwise act as representative of the deceased, throughout the province in which the same may have been granted, until such probate or letters of administration shall have been recalled or revoked.

261. In any case before the District Judge in which there is conten-

Procedure in contentious cases.

tion, the proceedings shall take, as nearly as may be, the form of a regular suit, according to the provisions of the Code of Civil Procedure, in which the petitioner for probate or letters of administration, as the case may be, shall be the plaintiff, and the person who may have appeared as aforesaid to oppose the grant shall be the defendant.

262. Where any probate is or letters of administration are revoked,

Payment to executor or administrator before probate or letters of administration revoked.

Right of such executor or administrator to recoup himself for payment.

all payments *bonâ fide* made to any executor or administrator under such probate or administration before the revocation thereof shall, notwithstanding such revocation, be a legal discharge to the person making the same; and the executor or administrator who shall have acted under any such revoked probate or administration may retain and reimburse himself in respect of any payments made by him, which the person to whom probate or letters of administration shall be afterwards granted might have lawfully made.

263. Every order made by a District Judge by virtue of the powers

Appeals from orders made by District Judge.

hereby conferred upon him, shall be subject to appeal to the High Court under the rules contained in the Code of Civil Procedure applicable to appeals.

Concurrent jurisdiction of High Court.

264. The High Court shall have concurrent jurisdiction with the District Judge in the exercise of all the powers hereby conferred upon the District Judge.

PART XXXII.

Of Executors of their own Wrong.

265. A person who intermeddles with the estate of the deceased, or does any other act which belongs to the office of executor, while there is no rightful executor or administrator in existence, thereby makes himself an executor of his own wrong.

Exceptions.—First.—Intermeddling with the goods of the deceased for the purpose of preserving them, or providing for his funeral or for the immediate necessities of his family or property, does not make an executor of his own wrong.

Second.—Dealing in the ordinary course of business with goods of the deceased received from another, does not make an executor of his own wrong.

Illustrations.

(a) A uses or gives away or sells some of the goods of the deceased, or takes them to satisfy his own debt or legacy, or receives payment of the debts of the deceased. He is an executor of his own wrong.

(b) A having been appointed agent by the deceased in his lifetime to collect his debts and sell his goods, continues to do so after he has become aware of his death. He is an executor of his own wrong in respect of acts done after he has become aware of the death of the deceased.

(c) A sues as executor of the deceased, not being such. He is an executor of his own wrong.

266. When a person has so acted as to become an executor of his own wrong, he is answerable to the rightful executor or administrator, or to any creditor or legatee of the deceased, to the extent of the assets which may have come to his hands, after deducting payments made to the rightful executor or administrator, and payments made in a due course of administration.

PART XXXIII.

Of the Powers of an Executor or Administrator.

267. An executor or administrator has the same power to sue in respect of all causes of action that survive the deceased, and to distrain for all rents due to him at the time of his death as the deceased had when living.

NOTE.—See Acts XII and XIII of 1855, *ante* pp. 60, 61.

268. All demands whatsoever and all rights to prosecute or defend any action or special proceeding, existing in favour of or against a person at the time of his decease, survive to and against his executors or administrators; except causes of action for defamation, assault as defined in the Indian Penal Code, or other personal injuries not causing the death of the party; and except also cases where, after the death of the party, the relief sought could not be enjoyed, or granting it would be nugatory.

Illustrations.

(a) A collision takes place on a railway in consequence of some neglect or default of the officials, and a passenger is severely hurt, but not so as to cause death. He afterwards dies without having brought any action. The cause of action does not survive.

(b) A sues for divorce. A dies. The cause of action does not survive to his representative.

Power of executor or administrator to dispose of deceased's property.

269. An executor or administrator has power to dispose of the property of the deceased, either wholly or in part, in such manner as he may think

Illustrations.

(a) The deceased has made a specific bequest of part of his property. The executor, not having assented to the bequest, sells the subject of it. The sale is valid.

(b) The executor, in the exercise of his discretion, mortgages a part of the immoveable estate of the deceased. The mortgage is valid.

270. If an executor or administrator purchases, either directly or indirectly, any part of the property of the deceased, the sale is voidable at the instance of any other person interested in the property sold.

Purchase by executor or administrator of deceased's property.

271. When there are several executors or administrators, the powers of all may, in the absence of any direction to the contrary, be exercised by any one of them who has proved the will or taken out administration.

Powers of several executors or administrators, exercisable by one.

Illustrations.

(a) One of several executors has power to release a debt due to the deceased.

(b) One has power to surrender a lease.

(c) One has power to sell the property of the deceased, moveable or immoveable.

(d) One has power to assent to a legacy.

(e) One has power to endorse a promissory note payable to the deceased.

(f) The will appoints A, B, C and D to be executors, and directs that two of them shall be a quorum. No act can be done by a single executor.

Survival of powers on death of one of several executors or administrators.

272. Upon the death of one or more of several executors or administrators, all the powers of the office become vested in the survivors or survivor.

Powers of administrators of effects unadministered.

273. The administrator of effects unadministered has, with respect to such effects, the same powers as the original executor or administrator.

Powers of administrator during minority.

274. An administrator during minority has all the powers of an ordinary administrator.

Powers of married executrix or administratrix.

275. When probate or letters of administration have been granted to a married woman, she has all the powers of an ordinary executor or administrator.

PART XXXIV.

Of the Duties of an Executor or Administrator.

276. It is the duty of an executor to perform the funeral of the deceased in a manner suitable to his condition, if he has left property sufficient for the purpose.

As to deceased's funeral.

277. An executor or administrator shall, within six months from the grant of probate or letters of administration, exhibit in the Court by which the same may have been granted an inventory containing a full and true estimate of all the property in possession, and all the credits, and also all the debts owing by any person or persons to which the executor or administrator is entitled in that character, and shall in like manner, within one year from the date aforesaid exhibit an account of the estate, showing the assets that may have come to his hands, and the manner in which they have been applied or disposed of

Inventory and account.

277. A. In all cases where it is sought to obtain a grant of probate or letters of administration intended to have effect throughout the whole of British India, the executor, or the person applying for administration after the first day of April, 1875, to the effects of any person dying in British India and leaving property in more than one province shall include in the inventory of the effects of the deceased his moveable or immovable property situate in each of the provinces: and the value of such property situate in the said provinces, respectively, shall be separately stated in such inventory, and the probate or letters of administration shall be chargeable with a fee corresponding to the entire amount or value of the property affected thereby wheresoever situate within British India.

NOTE.—The above section has been inserted by Act VIII of 1875, Section 5.

Duty of executor or administrator as to property of, and debts owing to, the deceased.

278. The executor or administrator shall collect, with reasonable diligence, the property of the deceased and the debts that were due to him at the time of his death.

279. Funeral expenses to a reasonable amount, according to the degree and quality of the deceased, and death-bed charges including fees for medical attendance, and board and lodging for one month previous to his death, are to be paid before all debts.

280. The expenses of obtaining probate or letters of administration, including the costs incurred for or in respect of any judicial proceedings that may be necessary for administering the estate, are to be paid next after funeral expenses and death-bed charges.

281. Wages due for services rendered to the deceased within three months next preceding his death by any labourer, artisan, or domestic servant are next to be paid, and then the other debts.

282. Save as aforesaid, no creditor is to have a right of priority over another, by reason that his debt is secured by an instrument under seal, or on any other account. But the executor or administrator shall pay all such debts as he knows of, including his own, equally and rateably, as far as the assets of the deceased will extend.

283. If the domicile of the deceased was not in British India, the application of his moveable property to the payment of his debts is to be regulated by the law of the country in which he was domiciled.

Illustration.

A dies, having his domicile in a country where instruments under seal have priority over instruments not under seal, leaving moveable property to the value of 10,000 rupees, immovable property to the value of 5,000 rupees, debts on instruments under seal to the amount of 10,000 rupees, and debts on instruments not under seal to the same amount. The debts on the instruments under seal are to be paid in full out of the moveable estate, and the proceeds of the immovable estate are to be applied as far as they will extend towards the discharge of the debts not under seal. Accordingly, one-half of the amount of the debts not under seal is to be paid out of the proceeds of the immovable estate.

Creditor paid in part under Section 283 to bring such payment into account, before sharing in proceeds of immoveable property.

284. No creditor who has received payment of a part of his debt by virtue of the last preceding section shall be entitled to share in the proceeds of the immoveable estate of the deceased unless he brings such payment into account for the benefit of the other creditors.

Illustration.

A dies, having his domicile in a country where instruments under seal have priority over instruments not under seal, leaving moveable property to the value of 5,000 rupees, and immoveable property to the value of 10,000 rupees, debts on instruments under seal to the amount of 10,000 rupees, and debts on instruments not under seal to the same amount. The creditors holding instruments under seal receive half of their debts out of the proceeds of the moveable estate. The proceeds of the immoveable estate are to be applied in payment of the debts on instruments not under seal until one-half of such debts has been discharged. This will leave 5,000 rupees, which are to be distributed rateably amongst all the creditors without distinction in proportion to the amount which may remain due to them.

Debts to be paid before legacies.

285. Debts of every description must be paid before any legacy.

286. If the estate of the deceased is subject to any contingent liabilities, an executor or administrator is not bound to pay any legacy without a sufficient indemnity to meet the liabilities when they may become due.

Executor or administrator not bound to pay legacies without indemnity.

287. If the assets, after payment of debts, necessary expenses and specific legacies, are not sufficient to pay all the general legacies in full, the latter shall abate or be diminished in equal proportions, and the executor has no right to pay one legatee in preference to another, nor to retain any money on account of a legacy to himself or to any person for whom he is a trustee.

Abatement of general legacies.

Executor not to pay one legatee in preference to another.

288. Where there is a specific legacy, and the assets are sufficient for the payment of debts and necessary expenses, the thing specified must be delivered to the legatee without any abatement.

Non-abatement of specific legacy when assets sufficient to pay debts.

289. Where there is a demonstrative legacy, and the assets are sufficient for the payment of debts and necessary expenses, the legatee has a preferential claim for payment of his legacy out of the fund from which the legacy is directed to be paid until such fund is exhausted, and if after the fund is exhausted, part of the legacy still remains unpaid, he is entitled to rank for the remainder against the general assets as for a legacy of the amount of such unpaid remainder.

Right under demonstrative legacy, when the assets are sufficient to pay debts and necessary expenses.

290. If the assets are not sufficient to answer the debts and the specific legacies, an abatement shall be made from the latter rateably in proportion to their respective amounts.

Rateable abatement of specific legacies.

Illustration.

A has bequeathed to B a diamond ring, valued at 500 rupees, and to C a horse, valued at 1,000 rupees. It is found necessary to sell all the effects of the testator, and his assets, after payment of debts, are only 1,000 rupees. Of this sum rupees 333-5-4 are to be paid to B, and rupees 666-10-8 to C.

291. For the purpose of abatement, a legacy for life, a sum appropriated by the will to produce an annuity, and the value of an annuity when no sum has been appropriated to produce it, shall be treated as general legacies.

Legacies treated as general for purpose of abatement.

PART XXXV.

Of the Executor's Assent to a Legacy.

Executor's assent necessary to complete legatee's title.

292. The assent of the executor is necessary to complete a legatee's title to his legacy.

Illustrations.

(a) A by his will bequeaths to B his Government paper, which is in deposit with the Bank of Bengal. The Bank has no authority to deliver the securities, nor B a right to take possession of them, without the assent of the executor.

(b) A by his will has bequeathed to C his house in Calcutta in the tenancy of B. C is not entitled to receive the rents without the assent of the executor.

293. The assent of the executor to a specific bequest shall be sufficient to divest his interest as executor therein, and to transfer the subject of the bequest to the legatee,

Effect of executor's assent to specific legacy.

Assent may be verbal, and either express or implied.

unless the nature or the circumstances of the property require that it shall be transferred in a particular way. This assent may be verbal, and it may be either express or implied from the conduct of the executor.

Illustrations.

(a) A horse is bequeathed. The executor requests the legatee to dispose of it, or a third party proposes to purchase the horse from the executor, and he directs him to apply to the legatee. Assent to the legacy is implied.

(b) The interest of a fund is directed by the will to be applied for the maintenance of the legatee during his minority. The executor commences so to apply it. This is an assent to the whole of the bequest.

(c) A bequest is made of a fund to A, and after him to B. The executor pays the interest of the fund to A. This is an implied assent to the bequest to B.

(d) Executors die after paying all the debts of the testator, but before satisfaction of specific legacies. Assent to the legacies may be presumed.

(e) A person to whom a specific article has been bequeathed takes possession of it and retains it without any objection on the part of the executor. His assent may be presumed.

294. The assent of an executor to a legacy may be conditional, and if the condition be one which he has a right to enforce, and it is not performed, there is no assent.

Conditional assent.

Illustrations.

(a) A bequeaths to B his lands of Sultanpur, which at the date of the will, and the death of A, were subject to a mortgage for 10,000 rupees. The executor assents to the bequest, on condition that B shall within a limited time pay the amount due on the mortgage at the testator's death. The amount is not paid. There is no assent.

(b) The executor assents to a bequest on condition that the legatee shall pay him a sum of money. The payment is not made. The assent is nevertheless valid.

295. When the executor is a legatee, his assent to his own legacy is necessary to complete his title to it in the same way as it is required when the bequest is to another person, and his assent may like manner be express or implied. Assent shall be implied if in his manner of administering the property he does any act which is referable to his character of legatee and is not referable to his character of executor.

Assent of executor to his own legacy.

Implied assent.

Implied assent.

Illustration.

An executor takes the rent of a house or the interest of Government securities bequeathed to him, and applies it to his own use. This is assent.

Assent of executor gives effect to legacy from testator's death.

296. The assent of the executor to a legacy gives effect to it from the death of the testator.

Illustrations.

(a) A legatee sells his legacy before it is assented to by the executor. The executor's subsequent assent operates for the benefit of the purchaser, and completes his title to the legacy.

(b) A bequeaths 1,000 rupees to B with interest from his death. The executor does not assent to this legacy until the expiration of a year from A's death. B is entitled to interest from the death of A.

Executor not bound to pay or deliver legacies until after one year from testator's death.

297. An executor is not bound to pay or deliver any legacy until the expiration of one year from the testator's death.

Illustration.

A by his will directs his legacies to be paid within six months after his death. The executor is not bound to pay them before the expiration of a year.

PART XXXVI.

Of the Payment and Apportionment of Annuities.

298. Where an annuity is given by the will, and no time is fixed for its commencement, it shall commence from the testator's death, and the first payment shall be made at the expiration of a year next after that event.

Commencement of annuity when no time fixed by will.

299. Where there is a direction that the annuity shall be paid quarterly or monthly, the first payment shall be due at the end of the first quarter or first month, as the case may be, after the testator's death; and shall, if the executor think fit, be paid when due, but the executor shall not be bound to pay it till the end of the year.

When payment of annuity to be paid quarterly or monthly first falls due.

300. Where there is a direction that the first payment of an annuity shall be made within one month or any other division of time from the death of the testator, or on a day certain, the successive payments are to be made on the anniversary of the earliest day on which the will authorizes the first payment to be made; and if the annuitant should die in the interval between the times of payment, an apportioned share of the annuity shall be paid to his representative.

Dates of successive payments when first payment of an annuity directed to be made within a given time, or on a day certain.

Apportionment where annuitant dies between times of payment.

PART XXXVII.

Of the Investment of Funds to provide for Legacies.

301. Where a legacy, not being a specific legacy, is given for life, the sum bequeathed shall at the end of the year be invested in such securities as the High Court may, by any general rule to be made from time to time, authorize or direct, and the proceeds thereof shall be paid to the legatee as the same shall accrue due.

Investment of sum bequeathed where a legacy, not specific, is given for life.

Investment of amount of general legacy, to be paid at a future time.

302. Where a general legacy is given to be paid at a future time, the executor shall invest a sum sufficient to meet it in securities of the kind mentioned in

Intermediate interest. the last preceding section. The intermediate interest shall form part of the residue of the testator's estate.

303. Where an annuity is given and no fund is charged with its payment or appropriated by the will to answer it, a Government annuity of the specified amount shall be purchased, or, if no such annuity can be obtained, then a sum sufficient to produce the annuity shall be invested for that purpose in such securities as the High Court may, by any general rule to be made from time to time, authorize or direct.

304. Where a bequest is contingent, the executor is not bound to invest the amount of the legacy, but may transfer the whole residue of the estate to the residuary legatee on his giving sufficient security for the payment of the legacy if it shall become due.

305. Where the testator has bequeathed the residue of his estate to a person for life without any direction to invest it in any particular securities, so much thereof as is not at the time of the testator's decease invested in such securities as the High Court may for the time being regard as good securities, shall be converted into money and invested in such securities.

306. Where the testator has bequeathed the residue of his estate to a person for life with a direction that it shall be invested in certain specified securities, so much of the estate as is not at the time of his death invested in securities of the specified kind shall be converted into money and invested in such securities.

307. Such conversion and investment as are contemplated by the two last preceding sections shall be made at such times and in such manner as the executor shall in his discretion think fit; and until such conversion and investment shall be completed, the person who would be for the time being entitled to the income of the fund when so invested shall receive interest at the rate of four per cent. per annum upon the market value (to be computed as of the date of the testator's death) of such part of the fund as shall not yet have been so invested.

308. Where, by the terms of a bequest, the legatee is entitled to the immediate payment or possession of the money or thing bequeathed, but is a minor, and there is no direction in the will to pay it to any person on his behalf, the executor or administrator shall pay or deliver the same into the Court of the District Judge by whom or by whose District Delegate the probate was or letters of administration with the will annexed were granted, to the account of the legatee, unless the legatee be a ward of the Court of Wards; and if the legatee be a ward of the Court of Wards the legacy shall be paid into that Court to his account, and such payment into the Court of the District Judge, or into the Court of Wards, as the case may be, shall be a sufficient discharge for the money so paid; and such money when paid in shall be invested in the purchase of Government securities, which, with the interest

thereon, shall be transferred or paid to the person entitled thereto, or otherwise applied for his benefit, as the Judge or the Court of Wards, as the case may be, may direct.

PART XXXVIII.

Of the Produce and Interest of Legacies.

Legatee of a specific legacy entitled to produce thereof from testator's death.

309. The legatee of a specific legacy is entitled to the clear produce thereof, if any, from the testator's death.

Exception.—A specific bequest, contingent in its terms, does not comprise the produce of the legacy between the death of the testator and the vesting of the legacy. The clear produce of it forms part of the residue of the testator's estate.

Illustrations.

(a) A bequeaths his flock of sheep to B. Between the death of A and delivery by his executor the sheep are shorn, or some of the ewes produce lambs. The wool and lambs are the property of B.

(b) A bequeaths his Government securities to B, but postpones the delivery of them till the death of C. The interest which falls due between the death of A and the death of C belongs to B, and must, unless he is a minor, be paid to him as it is received.

(c). The testator bequeaths all his four per cent. Government promissory notes to A when he shall complete the age of 18. A, if he completes that age, is entitled to receive the notes, but the interest which accrues in respect of them, between the testator's death and A's completing 18, forms part of the residue.

Residuary legatee entitled to produce of residuary fund from testator's death.

310. The legatee under a general residuary bequest is entitled to the produce of the residuary fund from the testator's death.

Exception.—A general residuary bequest contingent in its terms does not comprise the income which may accrue upon the fund bequeathed between the death of the testator and the vesting of the legacy. Such income goes as undisposed of.

Illustrations.

(a) The testator bequeaths the residue of his property to A, a minor, to be paid to him when he shall complete the age of 18. The income from the testator's death belongs to A.

(b) The testator bequeaths the residue of his property to A, when he shall complete the age of 18. A, if he complete that age, is entitled to receive the residue. The income which has accrued in respect of it since the testator's death goes as undisposed of.

Interest when no time is fixed for payment of a general legacy.

311. Where no time has been fixed for the payment of a general legacy, interest begins to run from the expiration of one year from the testator's death.

Exceptions.—(1). Where the legacy is bequeathed in satisfaction of a debt, interest runs from the death of the testator.

(2). Where the testator was a parent or a more remote ancestor of the legatee, or has put himself in the place of a parent of the legatee, the legacy shall bear interest from the death of the testator.

(3). Where a sum is bequeathed to a minor with a direction to pay for his maintenance out of it, interest is payable from the death of the testator.

312. Where a time has been fixed for the payment of a general legacy, interest begins to run from the time so fixed. The interest up to such time forms part of the residue of the testator's estate.

Interest when time has been fixed.

Exception.—Where the testator was a parent or a more remote ancestor of the legatee, or has put himself in the place of a parent of the legatee, and the legatee is a minor, the legacy shall bear interest from the death of the testator, unless a specific sum is given by the will for maintenance.

Rate of interest.

313. The rate of interest shall be four per cent. per annum.

314. No interest is

No interest payable on arrears of annuity within first year after testator's death.

payable on the arrears of an annuity within the first year from the death of the testator, although a period earlier than the expiration of that year may have been fixed by the will for making the first payment of the annuity.

Interest payable on sum to be invested to produce annuity.

315. When a sum of money is directed to be invested to produce an annuity, interest is payable on it from the death of the testator.

PART XXXIX.

Of the Refunding of Legacies.

316. When an executor has paid a legacy under the order of a

Refund of legacy paid under Judge's orders.

Judge, he is entitled to call upon the legatee to refund, in the event of the assets proving insufficient to pay all the legacies.

317. When an executor has voluntarily paid a legacy, he cannot call

No refund if legacy paid voluntarily.

upon a legatee to refund, in the event of the assets proving insufficient to pay all the legacies.

318. When the time prescribed by the will for the performance of a

Refund when legacy has become due on performance of a condition within further time allowed under Section 124.

condition has elapsed, without the condition having been performed, and the executor has thereupon, without fraud, distributed the assets; in such case if further time has been allowed under the one hundred and twenty-fourth section for the performance of the condition, and the condition has been performed accordingly, the legacy cannot be claimed from the executor, but those to whom he has paid it are liable to refund the amount.

319. When the executor has paid away the assets in legacies, and he is

When each legatee is compellable to refund in proportion.

afterwards obliged to discharge a debt of which he had no previous notice, he is entitled to call upon each legatee to refund in proportion.

320. Where an executor or administrator has given such notices as

Distribution of assets.

would have been given by the High Court in an administration suit, for creditors and others to send in to him their claims against the estate of the deceased, he shall, at the expiration of the time therein named for sending in claims, be at liberty to distribute the assets or any part thereof, in discharge of such lawful claims as he knows of, and shall not be liable for the assets so distributed to any person of whose claim he shall not have had notice at the time of such distribution; but nothing herein contained shall prejudice the right of any creditor or claimant to follow the assets, or any part thereof, in the hands of the persons who may have received the same respectively.

321. A creditor who has not received payment of his debt may call upon a legatee who has received payment of his legacy to refund, whether the assets of the testator's estate were or were not sufficient at the time of his death to pay both debts and legacies; and whether the payment of the legacy by the executor was voluntary or not.

NOTE.—As amended by Act XV of 1877.

322. If the assets were sufficient to satisfy all the legacies at the time of the testator's death, a legatee who has not received payment of his legacy, or who has been compelled to refund under the last preceding section, cannot oblige one who has received payment in full to refund, whether the legacy were paid to him with or without suit, although the assets have subsequently become deficient by the wasting of the executor.

323. If the assets were not sufficient to satisfy all the legacies at the time of the testator's death, a legatee who has not received payment of his legacy, must, before he can call on a satisfied legatee to refund, first proceed against the executor if he is solvent; but if the executor is insolvent or not liable to pay, the unsatisfied legatee can oblige each satisfied legatee to refund in proportion.

324. The refunding of one legatee to another shall not exceed the sum by which the satisfied legacy ought to have been reduced if the estate had been properly administered.

Illustration.

A has bequeathed 240 rupees to B, 480 rupees to C, and 720 rupees to D. The assets are only 1,200 rupees, and if properly administered would give 200 rupees to B, 400 rupees to C and 600 rupees to D. C and D have been paid their legacies in full, leaving nothing to B. B can oblige C to refund 80 rupees and D to refund 120 rupees.

Refunding to be without interest.

325. The refunding shall in all cases be without interest.

Residue of the deceased's property after usual payments to be paid to residuary legatee.

326. The surplus or residue of the deceased's property after payment of debts and legacies, shall be paid to the residuary legatee when any has been appointed by the will.

PART XL.

Of the Liability of an Executor or Administrator for Devastation.

327. When an executor or administrator misapplies the estate of the deceased, or subjects it to loss or damage, he is liable to make good the loss or damage so occasioned.

Illustrations.

(a) The executor pays out of the estate an unfounded claim. He is liable to make good the loss.

(b) The deceased had a valuable lease renewable by notice, which the executor neglects to give at the proper time. The executor is liable to make good the loss.

(c) The deceased had a lease of less value than the rent payable for it, but terminable on notice at a particular time. The executor neglects to give the notice. He is liable to make good the loss.

For neglect to get in any part of the deceased's property.

328. When an executor or administrator occasions a loss to the estate by neglecting to get in any part of the property of the deceased, he is liable to make good the amount.

Illustrations.

(a) The executor absolutely releases a debt due to the deceased from a solvent person, or compounds with a debtor who is able to pay in full. The executor is liable to make good the amount.

(b) The executor neglects to sue for a debt till the debtor is able to plead the Act for the limitation of suits, and the debt is thereby lost to the estate. The executor is liable to make good the amount.

PART XLI.

Miscellaneous.

329. *Repealed by Act VII of 1870.*

330. *Repealed by Act XXIV of 1867.*

331. The provisions of this Act shall not apply to intestate or testamentary succession to the property of any Hindu, Muhammadan or Buddhist; nor shall they apply to any will made, or any intestacy occurring, before the first day of January 1866. The fourth section shall not apply to any marriage contracted before the same day.

Succession to property of Hindus, Muhammadans or Buddhists, and certain wills, intestacies and marriages not affected by this Act.

NOTE.—Act XXI of 1870 (*the Hindu Wills Act*) makes certain portions of this Act applicable to wills of Hindus, Jainas, Sikhs and Buddhists in the lower provinces of Bengal and in the towns of Madras and Bombay.

332. The Governor-General of India in Council shall from time to time have power, by an order, either retrospectively from the passing of this Act, or prospectively, to exempt from the operation of the whole or any part of this Act the members of any race, sect or tribe in British India, or any part of such race, sect or tribe, to whom he may consider it impossible or inexpedient to apply the provisions of this Act, or of the part of the Act mentioned in the order. The Governor-General of India in Council shall also have power from time to time to revoke such order, but not so that the revocation shall have any retrospective effect. All orders and revocations made under this section shall be published in the *Gazette of India*.

Power of Governor-General to exempt any race, sect, or tribe in British India from the operation of this Act.

SCHEDULE.

STAMPS.

Repealed by Act VII of 1870.

ACT No. XV of 1865.

(Passed on the 7th April 1865).

An Act to define and amend the law relating to Marriage and Divorce among the Parsis.

Whereas the Parsi community has represented the necessity of defining and amending the law relating to marriage and divorce among Parsis; And whereas it is expedient that such law should be made conformable to the customs of the said community; It is enacted as follows:—

I.—Preliminary.

Short title.

1. This Act may be cited as "The Parsi Marriage and Divorce Act, 1865."

Interpretation clause.

2. In this Act, unless there be something repugnant in the subject or context—

"Number."

Words in the singular number include the plural, and words in the plural number include the singular.

"Priest."

"Priest" means a Parsi priest and includes Dastur and Mobed.

"Marriage."

"Marriage" means a marriage between Parsis whether contracted before or after the commencement of this Act; and "Husband" and "Wife" respectively mean a Parsi husband and a Parsi wife.

"Section."

"Section" means a section of this Act.

"Chief Justice."

"Chief Justice" includes Senior Judge.

"Court."

"Court" means a Court constituted under this Act.

"British India" means the territories which are or shall be vested in Her Majesty or her successors by the Statute 21 & 22 Vic., cap. 106, entitled "*An Act for the better Government of India.*"

"British India."

And, in any part of British India in which this Act operates, "Local Government" means the person authorized to administer executive Government in such part of India, or the chief executive officer of such part when it is under the immediate administration of the Governor-General of India in Council, and when such officer shall be authorized to exercise the powers vested by this Act in a Local Government; and "High Court" means the highest civil Court of appeal in such part.

"Local Government."

"High Court."

II.—Of Marriage between Parsis.

3. No marriage contracted after the commencement of this Act shall be valid, if the contracting parties are related to each other in any of the degrees of consanguinity or affinity prohibited among Parsis and set forth in a table which the Governor-General of India in Council shall, after due enquiry, publish in the *Gazette of India*, and unless such marriage shall be

Requisites to validity of Parsi marriages.

solemnized according to the Parsi form or ceremony called "Asirvad" by a Parsi priest in the presence of two Parsi witnesses independently of such officiating priest; and unless, in the case of any Parsi who shall not have completed the age of twenty-one years, the consent of his or her father or guardian shall have been previously given to such marriage.

NOTE.—See table printed at the end of this Act.

4. No Parsi shall, after the commencement of this Act, contract any marriage in the lifetime of his or her wife or husband, except after his or her lawful divorce from such wife or husband, by sentence of a Court as hereinafter provided; and every marriage contracted contrary to the provisions of this section shall be void.

Remarriage save after divorce unlawful during lifetime of first wife or husband.

5. Every Parsi who shall, after the commencement of this Act and during the lifetime of his or her wife or husband, contract any marriage without having been lawfully divorced from such wife or husband, shall be subject to the penalties provided in sections four hundred and ninety-four and four hundred and ninety-five of the Indian Penal Code for the offence of marrying again during the lifetime of a husband or wife.

Punishment of bigamy.

6. Every marriage contracted after the commencement of this Act shall, immediately on the solemnization thereof, be certified by the officiating priest in the form contained in the schedule to this Act. The certificate shall be signed by the said priest, the contracting parties, or their fathers or guardians when they shall not have completed the age of twenty-one years, and two witnesses present at the marriage; and the said priest shall thereupon send such certificate, together with a fee of two rupees to be paid by the husband, to the Registrar of the place at which such marriage is solemnized. The Registrar on receipt of the certificate and fee shall enter the certificate in a register to be kept by him for that purpose, and shall be entitled to retain the fee.

Certificate and registry of marriages.

7. For the purposes of this Act a Registrar shall be appointed. Within the local limits of the ordinary original civil jurisdiction of a High Court, the Registrar shall be appointed by the Chief Justice of such Court, and, without such limits, by the Local Government. Every Registrar so appointed may be removed by the Chief Justice or Local Government appointing him.

Appointment of Registrar.

8. The register of marriages mentioned in the sixth section shall, at all reasonable times, be open for inspection; and certified extracts therefrom shall, on application, be given by the Registrar on payment to him by the applicant of two rupees for each such extract. Every such register shall be evidence of the truth of the statements therein contained.

Marriage register to be open for public inspection.

8A. Every Registrar, except the Registrar appointed by the Chief Justice of the High Court of Judicature at Bombay, shall, at such intervals as the Governor-General in Council from time to time directs, send to the Registrar-General of Births, Deaths and Marriages for the territories administered by the Local Government by which he was appointed a true copy certified by him

Transmission of certified copies of certificates in marriage-register to Registrar-General of Births, Deaths and Marriages.

in such form as the Governor-General, from time to time, prescribes, of all certificates entered by him in the said register of marriages since the last of such intervals.

NOTE.—The above section has been added by Act VI of 1886, Section 31.

9. Any priest knowingly and wilfully solemnizing any marriage contrary to and in violation of the fourth section shall, on conviction thereof, be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both.

Penalty for solemnizing marriage contrary to Section. 4.

10. Any priest neglecting to comply with any of the requisitions affecting him contained in the sixth section shall, on conviction thereof, be punished for every such offence with simple imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.

Penalty for priest's neglect of requirements of Section 6.

11. Every other person required by the sixth section to subscribe or attest the said certificate who shall wilfully omit or neglect so to do, shall, on conviction thereof, be punished for every such offence with a fine not exceeding one hundred rupees.

Penalty for omitting to subscribe and attest certificate.

12. Every person making or signing or attesting any such certificate containing a statement which is false, and which he either knows or believes to be false, or does not know to be true, shall be deemed to be guilty of the offence of forgery as defined in the Indian Penal Code, and shall be liable, on conviction thereof, to the penalties provided in section four hundred and sixty-six of the said Code.

Penalty for making, &c. false certificate.

13. Any Registrar failing to enter the said certificate pursuant to the sixth section shall be punished with simple imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

Penalty for failing to register certificate.

14. Any person secreting, destroying, or dishonestly or fraudulently altering the said register in any part thereof, shall be punished with imprisonment of either description as defined in the Indian Penal Code for a term which may extend to two years, or, if he be a Registrar, for a term which may extend to five years, and shall also be liable to fine which may extend to five hundred rupees.

Penalty for secreting, destroying or altering the register.

III.—Of Parsi Matrimonial Courts.

15. For the purposes of hearing suits under this Act, a special Court shall be constituted in each of the presidency towns of Calcutta, Madras and Bombay, and in such other places in the territories of the several Local Governments as such Governments respectively shall think fit.

Constitution of special Courts under this Act.

NOTE.—No such Courts have yet been established in the Punjab.

16. The Court so constituted in each of the presidency towns shall be entitled the Parsi Chief Matrimonial Court of Calcutta, Madras or Bombay, as the case may be. The local limits of the jurisdiction of a Parsi Chief Matrimonial Court shall be coterminous with the local limits of the ordinary

Parsi Chief Matrimonial Courts.

original civil jurisdiction of the High Court. The Chief Justice of the High Court, or such other Judge of the same Court as the Chief Justice shall from time to time appoint, shall be the Judge of such Matrimonial Court, and, in the trial of cases under this Act, he shall be aided by eleven delegates.

17. Every Court so constituted at a place other than a presidency town shall be entitled the Parsi District Matrimonial Court of such place. Subject to the provisions contained in the next following section, the local limits of the jurisdiction of such Court shall be conterminous with the limits of the district in which it is held. The Judge of the principal Court of original civil jurisdiction at such place shall be the Judge of such Matrimonial Court, and, in the trial of cases under this Act, he shall be aided by seven delegates.

18. The Local Government may from time to time alter the local limits of the jurisdiction of any Parsi District Matrimonial Court, and may include within such limits any number of districts under its government.

19. Any district which the Local Government, on account of the fewness of the Parsi inhabitants, shall deem it inexpedient to include within the jurisdiction of any District Matrimonial Court, shall be included within the jurisdiction of the Parsi Chief Matrimonial Court for the territories under such Local Government where there is such Court.

20. A seal shall be made for every Court constituted under this Act and all decrees and orders and copies of decrees and orders of such Court shall be sealed with such seal, which shall be kept in the custody of the presiding Judge.

21. The Local Governments shall, in the presidency towns and districts subject to their respective Governments, respectively appoint persons to be delegates to aid in the adjudication of cases arising under this Act. The persons so appointed shall be Parsis: their names shall be published in the official Gazette; and their number shall, within the local limits of the ordinary original civil jurisdiction of a High Court, be not more than thirty, and in districts beyond such limits not more than twenty.

22. The appointment of a delegate shall be for life. But whenever a delegate shall die, or be desirous of relinquishing his office, or refuse or become incapable or unfit to act, or be convicted of an offence under the Indian Penal Code or other law for the time being in force, then and so often the Local Government may appoint any other person being a Parsi to be a delegate in his stead; and the name of the person so appointed shall be published in the official Gazette.

23. All delegates appointed under this Act shall be considered to be public servants within the meaning of the Indian Penal Code.

24. The delegates selected under the sixteenth and seventeenth sections to aid in the adjudication of suits under this Act, shall be taken under the orders of the presiding Judge of the Court in due rotation from the delegates appointed by the Local Government under the twenty-first section.

25. All advocates, vakils and attorneys-at-law entitled to practise in a High Court shall be entitled to practise in any of the Courts constituted under this Act; and all vakils entitled to practice in a District Court shall be entitled to practice in any District Matrimonial Court constituted under this Act.

26. All suits instituted under this Act shall be brought in the Court within the limits of whose jurisdiction the defendant resides at the time of the institution of the suit. When the defendant shall at such time have left British India, such suit shall be brought in the Court at the place where the plaintiff and defendant last resided together.

Court in which suits to be brought.

When defendant has left British India.

IV.—Of Matrimonial Suits.

(a). For a Decree of Nullity.

27. If a Parsi at the time of his or her marriage was a lunatic or of habitually unsound mind, such marriage may at the instance of his or her wife or husband be declared null and void upon proof that the lunacy or habitual unsoundness of mind existed at the time of the marriage and still continues. Provided that no suit shall be brought under this section if the plaintiff shall at the time of the marriage have known that the respondent was a lunatic or of habitually unsound mind.

In case of lunacy or mental unsoundness.

28. In any case in which consummation of the marriage is from natural causes impossible, such marriage may, at the instance of either party thereto, be declared to be null and void.

In case of non-consummation owing to physical causes.

(b). For a Decree of Dissolution in case of Absence.

29. If a husband or wife shall have been continually absent from his or her wife or husband for the space of seven years, and shall not have been heard of as being alive within that time by those persons who would naturally have heard of him or her had he or she been alive, the marriage of such husband or wife may, at the instance of either party thereto, be dissolved.

In case of absence for seven years.

(c). For Divorce or Judicial Separation.

30. Any husband may sue that his marriage may be dissolved, and a divorce granted, on the ground that his wife has, since the celebration thereof, been guilty of adultery; and any wife may sue that her marriage may be dissolved and a divorce granted, on the ground that, since the celebration thereof, her husband has been guilty of adultery with a married or fornication with an unmarried woman not being a prostitute, or of bigamy coupled with adultery, or of adultery coupled with cruelty, or of adultery coupled with wilful desertion for two years or upwards, or of rape, or of an unnatural offence. In every such suit for divorce on the ground of adultery the plaintiff shall, unless the Court shall otherwise order, make the person with whom the adultery is alleged to have been committed a co-defendant, and in any such suit by the husband the Court may order the adulterer to pay the whole or any part of the costs of the proceedings.

On the ground of the wife's adultery.

On the ground of the husband's adultery, &c.

31. If a husband treat his wife with such cruelty or personal violence as to render it in the judgment of the Court improper to compel her to live with him, or if his conduct afford her reasonable grounds for apprehending danger to life or serious personal injury, or if a prostitute be openly brought into or allowed to remain in the place of abode of a wife by her own husband, she shall be entitled to demand a judicial separation.

Grounds of judicial separation.

32. In a suit for divorce or judicial separation under this Act, if the Court be satisfied of the truth of the allegations contained in the plaint, and that the offence therein set forth has not been condoned, and that the husband and wife are not colluding together, and that the plaintiff has not connived at or been accessory to the said offence, and that there has been no unnecessary or improper delay in instituting the suit, and that there is no other legal ground why relief should not be granted, then and in such case, but not otherwise, the Court shall decree a divorce or judicial separation accordingly.

Suits for divorce or judicial separation.

33. In any suit under this Act for divorce or judicial separation, if the wife shall not have an independent income sufficient for her support and the necessary expenses of the suit, the Court, on the application of the wife, may order the husband to pay her monthly or weekly during the suit such sum, not exceeding one-fifth of the husband's net income, as the Court, considering the circumstances of the parties, shall think reasonable.

Alimony pendente lite.

34. The Court may, if it shall think fit, on any decree for divorce or judicial separation, order that the husband shall, to the satisfaction of the Court, secure to the wife such gross sum, or such monthly or periodical payments of money for a term not exceeding her life, as, having regard to her own property (if any), her husband's ability and the conduct of the parties, shall be deemed just, and for that purpose may require a proper instrument to be executed by all necessary parties and suspend the pronouncing of its decree until such instrument shall have been duly executed. In case any such order shall not be obeyed by her husband, he shall be liable to damages at her suit, and further to be sued by any person supplying her with necessaries, during the time of such disobedience, for the price or value of such necessaries.

Permanent alimony.

35. In all cases in which the Court shall make any decree or order for alimony, it may direct the same to be paid either to the wife herself, or to any trustee on her behalf to be approved by the Court, and may impose any terms or restrictions which to the Court may seem expedient, and may from time to time appoint a new trustee, if for any reason it shall appear to the Court expedient so to do.

Payment of alimony to wife or to her trustee.

(d). *For Restitution of Conjugal Rights.*

36. Where a husband shall have deserted or without lawful cause ceased to cohabit with his wife, or where a wife shall have deserted or without lawful cause ceased to cohabit with her husband, the party so deserted or with whom cohabitation shall have so ceased, may sue for the restitution of his or her conjugal rights, and the Court, if satisfied of the truth of the allegations contained in the plaint and that there is no just ground why relief should not be granted, may proceed to decree such restitution of

Suits for restitution of conjugal rights.

conjugal rights accordingly. If such decree shall not be obeyed by the party against whom it is passed, he or she shall be liable to be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

37. Notwithstanding anything hereinbefore contained, ~~no~~ suit shall be brought in any Court to enforce any marriage between Parsis or any contract connected with or arising out of any such marriage, if, at the date of the institution of the suit, the husband shall not have completed the age of sixteen years, or the wife shall not have completed the age of fourteen years.

38. In every suit preferred under this Act, the case shall be tried with closed doors should such be the wish of either of the parties.

39. *Repealed by Act VII of 1870.*

Provisions of Civil Procedure Code to apply in suits under this Act.

40. The provisions of the Code of Civil Procedure shall, so far as the same may be applicable, apply to suits instituted under this Act.

41. In suits under this Act all questions of law and procedure shall be determined by the presiding Judge; but the decision on the facts shall be the decision of the majority of the delegates before whom the case is tried.

42. An appeal shall lie to the High Court from the decision of any Court established under this Act, whether a Chief Matrimonial Court or District Matrimonial Court, on the ground of the decision being contrary to some law or usage having the force of law, or of a substantial error or defect in the procedure or investigation of the case which may have produced error or defect in the decision of the case upon the merits, and on no other ground: Provided that such appeal be instituted within three calendar months after the decision appealed from shall have been pronounced.

43. When the time hereby limited for appealing against any decree dissolving a marriage shall have expired and no appeal shall have been presented against such decree, or when any such appeal shall have been dismissed, or when in the result of any appeal any marriage shall be declared to be dissolved, but no sooner, it shall be lawful for the respective parties thereto to marry again, as if the prior marriage had been dissolved by death.

V.—Of the Children of the Parties.

44. In any suit under this Act for obtaining a judicial separation or a decree of nullity of marriage, or for dissolving a marriage, the Court may from time to time pass such interim orders and make such provision in the final decree as it may deem just and proper, with respect to the custody, maintenance and education of the children under the age of sixteen years, the marriage of whose parents is the subject of such suit, and may, after the final decree, upon application by petition for this purpose, make from time to time all such orders and provisions with respect to the custody, main

tenance and education of such children as might have been made by such final decree, or by interim orders in case the suit for obtaining such decree were still pending.

45. In any case in which the Court shall pronounce a decree of divorce or judicial separation for adultery of the wife, if it shall be made to appear to the Court that the wife is entitled to any property either in possession or reversion, the Court may order such settlement as it shall think reasonable to be made of such property or any part thereof, for the benefit of the children of the marriage or any of them.

VI.—Of the Mode of enforcing Penalties under this Act.

All offences under this Act may be tried by any officer exercising the powers of a Magistrate, unless the period of imprisonment to which the offender is liable shall exceed that which such officer is competent to award under the law for the time being in force in the place in which he is employed. When the period of imprisonment provided by this Act exceeds the period that may be awarded by such officer, the offender shall be committed for trial before the Court of Session.

47. If any offence which by this Act is declared to be punishable with fine, or with fine and imprisonment not exceeding six months, shall be committed by any person within the local limits of the ordinary original civil jurisdiction of the High Court, such offence shall be punishable upon summary conviction by any Magistrate of Police of the place at which such Court is held.

48. All fines imposed under the authority of this Act may, in case of non-payment thereof, be levied by distress and sale of the offender's moveable property by warrant under the hand of the officer imposing the fine.

49. In case any such fine shall not be forthwith paid, such officer may order the offender to be arrested and kept in safe custody until the return can be conveniently made to such warrant of distress, unless the offender shall give security to the satisfaction of such officer for his appearance at such place and time as shall be appointed for the return of the warrant of distress.

50. If upon the return of the warrant it shall appear that no sufficient distress can be had whereon to levy such fine, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such officer, by the confession of the offender or otherwise, that he has not sufficient property whereupon such fine could be levied if a warrant of distress were issued, any such officer may, by warrant under his hand, commit the offender to prison, for any term not exceeding two calendar months when the amount of fine shall not exceed fifty rupees, and for any term not exceeding four calendar months when the amount shall not exceed one hundred rupees, and for any term not exceeding six calendar months in any other case, the commitment to be determinable in each of the cases aforesaid on payment of the amount of fine.

VII.—Miscellaneous.

51. Subject to the provisions contained or referred to in this Act, the High Court shall make such rules and regulations concerning the practice and procedure of the Parsi Chief and District Matrimonial Courts in the presidency or Government in which such High Court shall be established, as it may from time to time consider expedient, and shall have full power from time to time to revoke or alter the same. All such rules, revocations and alterations shall be published in the official Gazette.

Rules of procedure of Parsi matrimonial Courts to be made by the High Court.

52. The Governor-General of India in Council may invest the chief executive officer of any part of British India under the immediate administration of the Government of India with the powers vested by this Act in a Local Government.

Power to invest chief executive officer with powers of Local Government.

53. Repealed by Act XII of 1876.

SCHEDULE. (See Section 6).

Date and place of marriage.	Names of the husband and wife.	Condition at the time of marriage.	Rank or profession.	Age.	Residence.	Names of the fathers or guardians.	Rank or profession.	Signature of the officiating Priest.	Signatures of the witnesses.	Signature of father or guardian when husband or wife is an infant.
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NOTES.—(a). This Act is declared to be in force throughout the whole of British India except the Scheduled Districts, by Act XV of 1874. It has also been declared to be in force in certain of the Scheduled Districts of the Punjab, but not in Lahul (*vide* Notes (a) and (b) to Act XIV of 1874).

(b) With reference to Section 3 of Act XV of 1865, the following table of the degrees of consanguinity and affinity within which marriage is prohibited among the Parsis was published for general information in the *Gazette of India* of 9th September 1865, page 981 :—

TABLE.

A man shall not marry his—

1. Paternal grand-father's mother.
2. Paternal grand-mother's mother.
3. Maternal grand-father's mother.
4. Maternal grand-mother's mother.
5. Paternal grand-mother.
6. Paternal grand-father's wife.
7. Maternal grand-mother.
8. Maternal grand-father's wife.
9. Mother or step-mother.
10. Father's sister or step-sister.
11. Mother's sister or step-sister.
12. Sister or step-sister.
13. Brother's daughter or step-brother's daughter, or any direct lineal descendant of a brother or step-brother.
14. Sister's daughter or step-sister's daughter, or any direct lineal descendant of a sister or step-sister.
15. Daughter or step-daughter, or any direct lineal descendant of either.
16. Son's daughter or step-son's daughter, or any direct lineal descendant of a son or step-son.
17. Wife of son or of step-son or of any direct lineal descendant of a son or step-son.
18. Wife of daughter's son or of step-daughter's son, or of any direct lineal descendant of a daughter or step-daughter.

19. Mother of daughter's husband.
20. Mother of son's wife.
21. Mother of wife's paternal grand-father.
22. Mother of wife's paternal grand-mother.
23. Mother of wife's maternal grand-father.
24. Mother of wife's maternal grand-mother.
25. Wife's paternal grand-mother.
26. Wife's maternal grand-mother.
27. Wife's mother or step-mother.
28. Wife's father's sister.
29. Wife's mother's sister.
30. Father's brother's wife.
31. Mother's brother's wife.
32. Brother's son's wife.
33. Sister's son's wife.

A woman shall not marry her—

1. Paternal grand-father's father.
2. Paternal grand-mother's father.
3. Maternal grand-father's father.
4. Maternal grand-mother's father.
5. Paternal grand-father.
6. Paternal grand-mother's husband.
7. Maternal grand-father.
8. Maternal grand-mother's husband.
9. Father or step-father.
10. Father's brother or step-brother.
11. Mother's brother or step-brother.
12. Brother or step-brother.
13. Brother's son or step-brother's son, or any direct lineal descendant of a brother or step-brother.
14. Sister's son or step-sister's son, or any direct lineal descendant of a sister or step-sister.
15. Son or step-son, or any direct lineal descendant of either.
16. Daughter's son or step-daughter's son, or any direct lineal descendant of a daughter or step-daughter.
17. Husband of daughter or of step-daughter or of any direct lineal descendant of a daughter or step-daughter.
18. Husband of son's daughter or step-son's daughter or any direct lineal descendant of a son or step-son.
19. Father of daughter's husband.
20. Father of son's wife.
21. Father of husband's paternal grand-father.
22. Father of husband's paternal grand-mother.
23. Father of husband's maternal grand-father.
24. Father of husband's maternal grand-mother.
25. Husband's paternal grand-father.
26. Husband's maternal grand-father.
27. Husband's father or step-father.
28. Brother of husband's father.
29. Brother of husband's mother.
30. Husband's brother's son, or his direct lineal descendant.
31. Husband's sister's son, or his direct lineal descendant.
32. Brother's daughter's husband.
33. Sister's daughter's husband.

In the above table the words "brother" and "sister" denote brother and sister of the whole as well as half-blood. Relationship by step means relationship by marriage.—(Notification No. 1720, dated 6th September 1865—Gazette of India of 9th idem, page 981).

(c) See Act VI of 1886.

ACT No. XXI of 1865.*(Passed on the 10th April 1865).*

An Act to define and amend the Law relating to Intestate Succession among the Parsis.

Whereas it is expedient to define and amend the law relating to intestate succession among the Parsis; It is enacted as follows :—

Preamble.

1. Where a Parsi dies leaving a widow and children, the property of which he shall have died intestate shall be divided among the widow and children, so that the share of each son shall be double the share of the widow, and that her share shall be double the share of each daughter.

Division of property among widow and children of intestate.

2. Where a female Parsi dies leaving a widower and children, the property of which she shall have died intestate shall be divided among the widower and such children, so that his share shall be double of each of the children.

Division of property among widower and children of intestate.

3. When a Parsi dies leaving children but no widow, the property of which he shall have died intestate shall be divided amongst the children, so that the share of each son shall be four times the share of each daughter.

Division of property amongst the children of male intestate who leaves no widow.

4. When a female Parsi dies leaving children but no widower, the property of which she shall have died intestate shall be divided amongst the children in equal shares.

Division of property amongst the children of female intestate who leaves no widower.

5. If any child of a Parsi intestate shall have died in his or her lifetime, the widow or widower and issue of such child shall take the share which such child would have taken if living at the intestate's death in such manner as if such deceased child had died immediately after the intestate's death.

Division of pre-deceased child's share of intestate's property among the widow or widower and issue of such child.

6. Where a Parsi dies leaving a widow or widower, but without leaving any lineal descendants, his or her father and mother, if both are living, or one of them if the other is dead, shall take one moiety of the property as to which he or she shall have died intestate, and the widow or widower shall take the other moiety. Where both the father and the mother of the intestate survive him or her, the father's share shall be double the share of the mother. Where neither the father nor the mother of the intestate survives him or her, the intestate's relatives on the father's side, in the order specified in the first schedule hereto annexed, shall take the moiety which the father and the mother would have taken if they had survived the intestate. The next of kin standing first in the same schedule shall be preferred to those standing second, the second to the third, and so on in succession, provided that the property shall be so distributed as that each male shall take double the share of each female standing in the same degree of propinquity. If there be no relatives on the father's side the intestate's widow or widower shall take the whole.

Division of property when the intestate leaves a widow or widower, but no lineal descendants.

7. When a Parsi dies leaving neither lineal descendants nor a widow or widower, his or her next of kin, in the order set forth in the second schedule hereto annexed, shall be entitled to succeed to the whole of the property as to which he or she shall have died intestate. The next of kin standing first in the same schedule shall always be preferred to those standing second, the second to the third, and so on in succession, provided that the property shall be so distributed as that each male shall take double the share of each female standing in the same degree of propinquity.

8. The following portions of the Indian Succession Act, 1865, shall not apply to Parsis (that is to say) the whole of Part III, the whole of Part IV excepting Section twenty-five, the whole of Part V, and Section forty-three.

Division of property when the intestate leaves neither widow nor widower nor lineal descendants.

THE FIRST SCHEDULE.

- (1). Brothers and sisters, and the children or lineal descendants of such of them as shall have pre-deceased the intestate.
- (2). Grandfather and grandmother.
- (3). Grandfather's sons and daughters, and the lineal descendants of such of them as shall have pre-deceased the intestate.
- (4). Great grandfather and grandmother.
- (5). Great grandfathers's sons and daughters, and the lineal descendants of such of them as shall have pre-deceased the intestate.

THE SECOND SCHEDULE.

- (1). Father and mother.
- (2). Brothers and sisters and the lineal descendants of such of them as shall have pre-deceased the intestate.
- (3). Paternal grandfather and paternal grandmother.
- (4). Children of the paternal grandfather, and the lineal descendants of such of them as shall have pre-deceased the intestate.
- (5). Paternal grandfather's father and mother.
- (6). Paternal grandfather's father's children, and the lineal descendants of such of them as shall have pre-deceased the intestate.
- (7). Brothers and sisters by the mother's side and the lineal descendants of such of them as shall have pre-deceased the intestate.
- (8). Maternal grandfather and maternal grandmother.
- (9). Children of the maternal grandfather, and the lineal descendants of such of them as shall have pre-deceased the intestate.
- (10). Son's widow, if she have not re-married at or before the death of the intestate.
- (11). Brother's widow, if she have not re-married at or before the death of the intestate.
- (12). Paternal grandfather's son's widow, if she have not re-married at or before the death of the intestate.
- (13). Maternal grandfather's son's widow, if she have not re-married at or before the death of the intestate.

(14.) Widowers of the intestate's deceased daughters, if they have not re-married at or before the death of the intestate.

(15.) Maternal grandfather's father and mother.

(16.) Children of the maternal grandfather's father, and lineal descendants of such of them as shall have pre-deceased the intestate.

(17.) Paternal grandmother's father and mother.

(18.) Children of the paternal grandmother's father, and the lineal descendants of such of them as shall have pre-deceased the intestate.

NOTE.—This Act is declared to be in force throughout the whole of British India, except the Scheduled Districts, by Act XV of 1874. It has also been declared to be in force in certain of the Scheduled Districts of the Punjab but not in Lahul (*vide* Notes (a) and (b) to Act XIV of 1874).

ACT No.V of 1866.

(Passed on the 23rd February 1866).

An Act to amend in certain respects the Commercial Law of British India.

Whereas inconvenience is felt by persons engaged in trade by reason of the laws of British India being in some particulars different from those of England in matters of common occurrence in the course of such trade; and whereas, with a view to remedy such inconvenience, it is expedient to amend the laws of British India as hereinafter is mentioned; It is enacted as follows:—

1. In this Act, unless there be something repugnant in the subject or context—

“British India” shall mean the territories which are or may become vested in Her Majesty or Her successors by the Statute 21 & 22 Vic., cap. 106 (*An Act for the better Government of India*):

“British India.”

* * * * *

15. Every assignee, by endorsement or otherwise, of a policy of marine insurance or of a policy of insurance against fire, in whom the property in the subject insured shall be absolutely vested at the date of the assignment, shall have transferred to and vested in him all right of suit as if the contract contained in the policy had been made with himself.

NOTE.—This Act is declared to be in force throughout the whole of British India, except the Scheduled Districts, by Act XV of 1874.

The above are the only sections of the Act remaining unrepealed.

They have been declared to be in force in certain of the Scheduled Districts of the Punjab but not in Lahul (*vide* Notes (a) and (b) to Act XIV of 1874).

ACT No. XIV of 1866.*(Passed on the 23rd March 1866).*

An Act to amend the law for the management of the Post Office, for the regulation of the Duties of Postage, and for the punishment of offences against the Post Office.

WHEREAS it is expedient to amend the law for the management of the Post Office, for the regulation of the duties of postage, and for the punishment of offences against the Post Office ; It is enacted as follows:—

PART I.*Preliminary.*

Short title. 1. This Act may be cited as "The Indian Post Office Act, 1866".

2. In this Act—unless there be something repugnant in the subject or context—

Interpretation Clause. „Criminal Court.” “Criminal Court” includes every Judge, Magistrate, Justice of the Peace or Police Magistrate lawfully exercising jurisdiction in criminal cases :

“Fine.” “Fine” includes a penalty or forfeiture, or a sum of money due upon a forfeited recognizance :

“Clubbed packet” shall be taken to mean a packet containing a collection of letters not made by an agent of the Post Office, transmitted through the Post Office with the view of the enclosed letters being delivered to more than one person through the agent of the person by whom the packet was made up :

“Newspaper.” “Newspaper” shall include any periodical publication published at regular intervals not exceeding thirty-one days :

“Mails” shall include any letter, parcel or other article conveyed under the provisions of this Act, as well as any box, bag or other article, or any carriage, horse, messenger or other person employed or used by the Post Office for the conveyance or safe custody of the mails ; and

“British India” includes the territories which are now or shall be vested in Her Majesty or Her successor, by the Statute 21 and 22 Vic., cap. 106 (*An Act for the better Government of India*).

3. *Repealed by Act XIV of 1870.*

References to Act No. XVII of 1854 made in any Act passed subsequent thereto, shall be read as if made to the corresponding section of this Act.

5. Wheresoever, within British India, posts or postal communications are or shall be established by the Government of India the said Government shall have the exclusive privilege of conveying by post, from one place to another, all letters, except in the following cases, and shall also have the exclusive privilege of performing all the incidental services of receiving, collecting, sending, despatching and delivering all letters, except in the following cases, that is to say—

(1). Letters sent by a private friend in his way, journey or travel, so as such letters be delivered by such friend to the person to whom they shall be directed, without hire, reward, or other profit or advantage for receiving carrying or delivering the same :

(2). Letters solely concerning the affairs of the sender or receiver thereof, sent by a messenger on purpose :

(3). Letters solely concerning goods or other property sent either by sea or land to be delivered with the goods or property which such letters concern, without hire, reward, or other profit or advantage for receiving carrying or delivering such letters. But nothing herein contained shall authorize any person to make a collection of such excepted letters for the purpose of sending them in the manner hereby authorized.

6. Wheresoever, within British India, posts or postal communications are or shall be established by the Government of India, the following persons are expressly forbidden to collect, carry, tender or deliver any letter or letters, or to receive any letter for the purpose of carrying or delivering the same, although they shall not receive hire or reward for so doing, that is to say—

(1). Common carriers of passengers or goods, and their drivers, servants or agents, except letters solely concerning goods in their carriages :

(2). Owners and commanders of ships, steam-boats or other vessels passing on any river or canal, or to or from any port in British India, and their servants or agents, except letters solely concerning goods on board.

7. For carrying on the service of the Post Office, it shall be lawful for the Governor-General of India in Council to appoint or to authorize the appointment of such officers with such official styles or designations, and to invest them with and delegate to them such powers, not inconsistent with the provisions of this Act, as the said Governor-General of India in Council may, from time to time, deem expedient.

PART II.

Postage Rates.

8. Wheresoever posts or postal communications are or shall be established by the Government of India, postage, if pre-paid by a stamp or stamps as hereinafter provided, shall be charged by weight on letters transmitted by the letter-post by land according to the following scale :—

On every letter not exceeding a quarter of a tolah in weight,—six pie :

On every letter exceeding a quarter tolah and not exceeding half a tolah in weight,—one anna :

On every letter exceeding half a tolah and not exceeding one tolah in weight,—two annas :

And for every half tolah in weight above one tolah, one additional anna and every fraction of half a tolah above one tolah shall be charged as one additional half tolah.

Every article transmitted by the letter-post shall be deemed a letter within the meaning of this section, unless it be an article on which a different rate of postage shall be chargeable under this Act.

NOTE—The rates proscribed by this and the following sections have been superseded. The current rates will be found in the 'Postal Guide.'

9. Wheresoever posts or postal communications are or shall be established by the Government of India, postage on newspapers, transmitted by the letter-post by land, shall be charged by weight according to the following scale:—

On every newspaper not exceeding ten tolahs in weight,—one anna :

On every newspaper exceeding ten tolahs and not exceeding twenty tolahs in weight,—two annas :

And for every ten tolahs in weight above twenty tolahs, one additional anna; and every fraction of ten tolahs shall be charged as ten additional tolahs.

An extra or supplement to any newspaper, bearing the same date as the newspaper and transmitted therewith under the same cover, shall be deemed part of the newspaper.

Nothing contained in this Act shall be construed to oblige any person to send any newspaper through the Post Office, but it shall be lawful for all persons to send the same in any other manner.

10. A newspaper shall not be sent by the letter-post at the rates prescribed in the last preceding section, unless the following conditions be observed, that is to say—

(1) It shall be without a cover, or in a short cover open at both ends :

(2) There shall be no word printed on such newspaper after its publication, or upon the cover thereof, nor any writing or mark upon it, or upon the cover of it, except the name and address of the person to whom it is sent, and the name and address of the sender :

(3) There shall be no paper or thing enclosed in or with any such newspaper.

11. Any newspaper sent by the letter-post in respect of which the above conditions shall not be observed shall, together with any thing enclosed in or with the same, be charged with postage at the rate which would be charged on an unstamped letter of equal weight.

12. Proof-sheets marked as such may be sent by the letter-post at the rates prescribed for newspapers, provided the contents be correctly certified on the cover by the signature in full of the sender; otherwise the same shall be charged with postage at the rate which would be charged on an unstamped letter of equal weight.

NOTE.—In exercise of the powers conferred by Sections 20 and 63 of the Indian Post Office Act, 1866, the Governor-General in Council is pleased to extend to "Manuscript for the Press," with effect from 1st January 1878, the privilege of transmission by letter-post at the rates prescribed for registered newspapers, under the conditions applicable to proof-sheets.

The rule respecting "proof-sheets," modified so as to include "Manuscript for the Press," will be as follows:—

"Proof-sheets and Manuscript for the Press, marked as such, may be sent by letter-post, either without covers or in covers open at the ends, at the rates prescribed for registered Newspapers, provided that the contents be correctly certified on the outside under the signature in full of the sender."

This Notification has reference only to the inland post, the conditions governing the transmission of articles by foreign post being unaffected thereby.

(Government of India Notification No. 2542, dated 7th December 1877).

13. Subject to such rules and conditions as the Governor-General of India in Council may from time to time direct, books, packets of newspapers and other articles, provided the postage thereon be pre-paid by means of a

proper stamp or stamps to be affixed thereon as hereinafter provided, shall be charged with the following rates of postage, without reference to the distance to which they may be carried:—

If not exceeding ten tolahs in weight,—one anna.

If exceeding ten tolahs and not exceeding twenty tolahs in weight,—two annas:

And for every ten tolahs in weight above twenty tolahs, one additional anna; and every fraction of ten tolahs shall be charged as ten additional tolahs.

If the postage chargeable on any such book or other article be not pre-paid as aforesaid, it shall be subject to the rate of postage prescribed for banghy-parcels in Section 14 of this Act.

NOTE.—For revised rates see the 'Postal Guide.'

14. Inland postage shall be charged by weight and distance, on parcels sent by the banghy-post, according to the following scale:

Provided that not more than one letter shall be enclosed in a banghy-parcel, under a penalty not exceeding fifty rupees.

NOTE.—The scale prescribed in this section and in Section 18 has been superseded, and new rates and conditions have been prescribed.

15. Banghy-postage, when chargeable by distance under Section 14 of this Act, shall be calculated and charged according to such table of distances as shall be authorized from time to time for that purpose by the Governor-General of India in Council. And it shall be lawful for the Governor-General of India in Council to declare that the distances from or to the Post Offices not entered in such table shall, for the purposes of this Act, be regarded as represented by the distances shown in the table from or to the Post Offices nearest to them respectively. Each Post-Master-General shall prepare from the aforesaid table, in the English and vernacular languages, for the use of every Post Office under his control, a list of all the other Post Offices in India arranged alphabetically, and showing the distance of each of them from the Post Office for the use of which it is made, and such list shall be affixed in some conspicuous place in such Post Office.

NOTE.—“With a view to guard against loss in transit by post of service covers containing stamps or other valuables, the attention of treasury and other officers is hereby called to the expediency of sending all such covers by banghy-post.

2. “This course will obviate the necessity of resorting to the more expensive system of registration by letter-post, and will secure equal safety, as all banghy parcels are transmitted by the Post Office department under a simple system of registration applicable to that mode of transit.

3. “Receipts are granted by the Post Office for banghy-parcels when presented ready written, either in books or on separate slips of paper, along with the parcels. Receipts so presented will be stamped with the Post Office stamp.”—(Notification No. 3987, dated 6th October 1870).

16. Where there is no banghy-post established on any line of road, parcels, books, and other articles shall be received and transmitted by the letter-post, and shall be charged with postage according to the scale in Section 18 or 14 of this Act, as the case may be, if it be certified in writing, on such parcel, book-packet or other article under the full signature and address of the sender, that it does not contain any letter or other written communication on which a higher rate of postage is chargeable under any section of this Act.

If any such certificate be false, any such letter or other written communication contained in such certified parcel, book-packet or other article shall be charged with letter-postage as if sent separately, and the sender shall be subject to the penalty hereinafter provided.

Effect of false certificate.

Book-packets and parcels not exceeding ten tolahs in weight to go by letter-post, unless directed to be sent by banghy or book-packet post.

17. All book-packets and parcels not exceeding ten tolahs in weight, sent through the Post Office, shall be conveyed by letter-post and be charged with letter-postage, unless specially directed to be sent by banghy or book-packet post.

18. On all parcels chargeable under Section 14 of this Act with banghy-postage according to distance when conveyed by land, ship-postage shall be charged when they are conveyed by means of Her Majesty's Indian post by sea, according to the following scale:

Ship postage on parcels.

NOTE.—The scale prescribed by this section is omitted, as it has been superseded.

19. It shall be lawful for the Governor-General in Council at any time to direct that all or any letters or other articles shall not be forwarded by post, unless the postage thereof shall be fully pre-paid by means of a proper stamp or stamps: or that on all or any letters or other articles on which the postage shall not be fully pre-paid by a stamp or stamps, or otherwise as the said Governor-General in Council shall direct, there shall be charged such higher rates of postage as from time to time may be deemed expedient, not exceeding double the rates of postage hereinbefore specified.

Governor-General in Council may direct payment of postage in all cases.

20. It shall be lawful for the Governor-General in Council from time to time to authorize the levy of postage at rates different from those prescribed in this Act, provided that no increase be made in any particular of the rates prescribed in Sections 8 and 9 of this Act.

Governor-General in Council may alter the rates of postage.

NOTE.—The notifications under this and subsequent sections as to rates of postage, &c., have been omitted, as they will be found in a collected form in the 'Postal Guide.'

21. It shall be lawful for the Governor-General in Council from time to time to direct that postage duties, different from the rates authorized by this Act, shall be chargeable on letters or other articles to be specified in such order, sent through the post from or to any part of Great Britain; or any British colony, or any foreign country to or from any places in British India. The postage charged on any letter or other article specified in any order of Council made under this section, whether under the name of steam postage or any other denomination, shall, after the rates of such postage have been published in the official Gazette of any presidency, be recovered in the same manner as postage under this Act.

Governor-General in Council may fix rates of steam postage.

NOTES.—(a). In exercise of the power conferred by Sections 20 and 21 of the Indian Post Office Act, 1866 (XIV of 1866), the Governor-General in Council authorises, with effect from the 1st February 1884, the transmission by letter post of Inland Reply Postcards, bearing embossed stamps of $\frac{1}{4}$ anna on each of their two portions, and of Foreign Reply Postcards bearing embossed stamps of $1\frac{1}{4}$ anna on each of their two portions.

2. Inland Reply Post Cards are subject to the conditions which govern inland single post cards: Foreign Reply Post Cards are subject to the conditions which govern foreign single post-cards. (*Government of India Notification No. 1995, dated 21st December 1883, Gazette of India of 22nd idem*).

(b). In exercise of the power conferred by Section 63 of Act XIV of 1866, the Governor-General in Council is pleased to rule that the first half of an Inland Reply Post-Card shall be posted with the second or reply-portion attached to it, and that if this rule is infringed, the first portion of the post-card in question still be charged on delivery with half an anna. (*Government of India Notification No. 18, dated 28th March 1884, Gazette of India of 5th April 1884*).

22. It shall be lawful for the Governor-General of India in Council to fix, from time to time, rates of postage to be levied on all letters or other articles transmitted by post, by sea, or partly by sea and partly by land, from one part or place in India to another. It shall not be necessary that such rates be uniform; but they may vary according to the conveyance or route by which such letters or other articles shall be sent.

Governor-General in Council may fix rates of postage for articles sent wholly or partly by sea.

23. It shall be lawful for the Governor-General of India in Council from time to time to fix and order any rate of postage to be charged for the conveyance of letters or other articles by express, in addition to or instead of any other rates of postage chargeable on such letters and articles under this Act.

Governor-General in Council may fix express postage rates.

24. On every letter or other article which shall be re-directed at any Post Office or forwarded by post from any place to which it shall have been conveyed by post, there shall be charged for the postage thereof from the place at which the same shall be re-directed, or from which it shall be forwarded, in addition to all other postage paid or due thereon, the rate of postage to which it would be liable if posted and pre-paid by stamp at the place where it shall be re-directed or from which it shall be forwarded.

Re-directed letters.

NOTE.—Under the provisions of Sections 20, 21 and 22 of the Post Office Act of 1866, the Governor-General in Council is pleased to direct that the additional postage chargeable under Section 24 of the said Act upon any letter or other article re-directed at any Post Office or forwarded by post from any place to which it shall have been conveyed by post, shall not be charged upon any such letter or other article which may be so re-directed or forwarded on or after the 1st January 1878.—(*Government of India Notification No. 2450, dated 7th December 1877*).

PART III.

Registered Letters.

25. Any person posting a letter or other article shall be entitled to require that it shall be registered at the receiving Post Office, and that a receipt shall be granted for such registered letter or article; and it shall be lawful for the Governor-General of India in Council to direct that, in addition to any rates of postage payable under this Act, a fee not exceeding four annas shall be charged on any letter or other article which the sender thereof shall require to be so registered, and such registration fee shall be paid by means of a stamp or stamps affixed to the letter or other article.

Letters may be registered.

NOTE.—The fee for registering a letter or other article has been reduced to 2 annas from the 1st August 1881.

26. It shall be lawful for the Governor-General of India in Council from time to time by order to declare in what cases registration shall be compulsory, and to direct that a double registration fee shall be levied on the delivery of any letter or other article which ought, in the opinion of the Governor-General in Council, to be registered.

Governor-General in Council may declare in what cases registration shall be compulsory.

under the order of the Governor-General in Council, to have been registered at the time of posting, on which the registration fee shall not have been pre-paid as directed in Section 25.

NOTE.—“The object and effect of the Notification by the Government of India in the Financial Department, No. 1829, dated 18th March 1872, having been misunderstood, the Governor-General in Council is pleased to direct that it be cancelled, and to publish instead thereof the following order:

ORDER.

“In exercise of the powers conferred by Section 26 of the Indian Post Office Act, 1866, the Governor-General in Council is pleased to declare and direct as follows:

“1. If a cover posted at any Indian Post Office and addressed to any place in India contains coin or a currency note or any portion thereof, or manifestly contains postage or other stamps or labels, or a cheque, hundi, bank note, bank post bill, bill of exchange or the like, the registration thereof under Section 25 of the said Act shall be compulsory.

“2. A double registration fee shall be levied on the delivery of any cover which ought under this order to have been registered at the time of posting, and on which the registration fee shall not have been pre-paid as directed in Section 25 of the said Act.

“Nothing in this order necessitates the registration of any cover containing postage or other stamps, or labels, a cheque, hundi, bank note and the like, unless the contents thereof are either superscribed upon the cover, or are known or manifest to the officers of the Post Office Department owing to the transparency, insecurity, or insufficiency of the cover or to any other cause.”

(Government of India Notification No. 2042, dated 16th August 1872, Gazette of India of 17th idem).

PART IV.

Re-delivered, Unpaid, Unclaimed and Refused Letters.

27. No person having delivered into any Post Office any letter or other

Re-delivery of letters and other articles once put into Post Office. article shall be entitled to recall the same; but nothing in this section shall prevent the re-delivery of any letter or other article to the sender thereof, subject to such rules and regulations, if any, as the Governor-General of India in Council may from time to time prescribe in that behalf.

28. The person to whom any letter or other article, the postage of

Postage on unpaid letters, &c. which has not been paid, shall be delivered, shall not be bound to pay the postage if he forthwith return the same unopened; but if he open the same, he shall be bound to pay the postage due thereon. If he forthwith return the same unopened, the sender of the letter or other article shall be bound to pay the postage thereof. If any person shall refuse to pay any postage which he is legally bound to pay for any letter or other article, the same may be recovered for the use of the Secretary of State for India by any Post-Master-General, or by any officer in charge of a Post Office by order of a Post-Master-General, in the same manner as a fine may be recovered under this Act; and it shall be lawful for the officer in charge of any Post Office to withhold from the person so refusing, until such postage be paid, any other letter or other article addressed to that person, not being on Her Majesty's service. Provided always, that if a letter or other article shall appear to the satisfaction of the Post Master of the office of delivery to have been maliciously sent for the purpose of annoying the person to whom it is addressed, the Post Master of the delivery office may remit the postage.

29. Clause 1.—A list of all letters and other articles posted and

Unclaimed letters how to be dealt with. addressed to persons who cannot be found shall be prepared daily in every Post Office, and exposed for not less than two weeks in the most conspicuous

part of such office ; and all such letters and other articles which shall have remained three weeks unclaimed in any office shall, if the sender's name and address are written on the cover, be returned to the posting office to be delivered to the sender free of all charge. All letters and other articles of which the sender's name and address cannot be ascertained unless they be opened, shall, after remaining unclaimed for three weeks as aforesaid, be forwarded to the office of the Post-Master-General of the presidency.

Clause 2.—The Post-Master-General or some person duly appointed for

Unclaimed letters when sent to Post-Master-General's office to be opened ; and returned in dead letter covers to senders.

the purpose, and bound to secrecy, shall immediately open all such letters or other articles, and if the addresses of the senders can be discovered, shall enclose them in dead letter covers, and return them to the senders. All letters and other articles of which

neither the person addressed nor the sender can be found, shall, after they have remained unclaimed in the office of the Post-Master-General for one year, be destroyed.

Clause 3.—All money found in any unclaimed letter or other article

Money, &c., found therein how disposed of.

shall be paid into the public treasury ; and all other valuable property found as above shall be sold by the Post-Master-General of the presidency or by

some one duly authorized by him for that purpose ; and the proceeds of the sale shall be paid into the public treasury for the benefit of any person who may have a right thereto, after deducting all sums due from such person for postage.

30. Every letter or other article rejected unopened by the person to

Refused letters to be returned to posting office.

whom it is addressed, shall, if any postage is due thereon and if the sender's name and address are written on the cover, be returned to the posting

office, in order that the postage due may be recovered from the sender ; in all other cases, or when the sender's name and address are not on the cover, such letter or other article shall be forthwith sent to the office of the Post-Master-General of the presidency, who shall open the letter or other article, and take measures to recover the postage from the sender ; or shall at his discretion destroy the letter or other article ; and all money or other valuable property which such letter or other article may contain, shall be disposed of in the manner prescribed in the preceding section with respect to such money or property contained in unclaimed letters.

PART V.

Mails on board Inward and Outward bound Vessels.

31. When any vessel arrives by sea at any place within British India

Commanders of inward bound vessels carrying mail how to proceed on arrival.

at which there is a Post Office, the commander of such vessel shall, as speedily as possible, cause every letter, mail bag, box and packet on board of such vessel, which is directed to that place and not excepted from the exclusive privilege of the Post Office, to be delivered either at the Post Office or to some office of the Post Office authorized to receive the same ; and if there be on board any letter, mail bag, box or packet, directed to any other place, and not excepted from the exclusive privilege aforesaid, the said commander shall as speedily as possible report the same to the Post-Master of the place at which he has arrived, and shall act according to the directions he may receive

from such Post-Master, and the receipt of such Post-Master shall discharge such commander from all responsibility in respect of such letter or packet.

Penalty. Every commander of a vessel who shall wilfully disobey any of the directions contained in this section, shall be punished with a fine not exceeding one thousand rupees.

32. Every person being either the commander of a vessel inward-bound, or any one on board such vessel, who shall, within British India, knowingly have in his possession any letter not excepted from the privilege of the Post Office, after any part of the letters on board the said vessel shall have been sent to the Post Office, shall forfeit for every such letter a sum not exceeding fifty rupees, whether the letter be in the baggage or on the person of the offender, or otherwise in his custody; and every such person who shall detain any such letter after demand made for the same by an officer of the Post Office, shall forfeit for every such letter a sum not exceeding one hundred rupees.

33. For every letter delivered by the commander of any ship in conformity with the directions of Section 31 of this Act, the officer in charge of the Post Office shall pay to the said commander the sum of one anna; and the sum of one anna shall be chargeable as postage on such letter, in addition to any other postage chargeable thereon under this Act. Provided that no payment shall be made to the commander of any vessel on account of the delivery of any letter, unless the claim of such commander shall be preferred before the vessel leaves the place at which the letter was delivered, or before the expiration of two months from the date of the arrival of such vessel. Provided also, that nothing contained in Section 31 and the former part of this section of this Act, shall extend to any letter or mail-bag or box or packet conveyed by any mail-ship or mail-steamer recognized as such by the Governor-General of India in Council.

34. The commander of every vessel leaving any place in British India by sea, shall receive on board of such vessel every letter and packet which he shall be required so to receive by any officer of the Post Office, and shall give a receipt for such letter or packet; and every commander of a vessel, who shall wilfully disobey any direction contained in this section, shall be punished with a fine not exceeding one thousand rupees.

PART VI.

Postage Stamps.

35. All letters and other articles having a stamp or stamps affixed thereto (such stamp or stamps in every case being affixed on the outside, and being equal in value to the rate or rates of postage to which such letters or other articles are liable under this Act) shall, provided the stamp or stamps shall not have been used before, be considered as pre-paid.

36. The Governor-General of India in Council shall cause postage stamps to be provided, denoting such values as the said Governor-General of India in Council may direct, and shall give such orders, and make such other regulations relative thereto as may be deemed expedient.

NOTE.—Under this section the Governor-General in Council has ordered that postage stamps, impressed on envelopes or note paper, shall not be recognized in payment of postage when cut or otherwise detached from the envelopes or paper on which they were impressed. (Notification No. 1875, dated 15th March 1869, Financial Department—Gazette of India of 20th idem, page 668).

37. Postage stamps, provided as aforesaid, shall be under the care and management of such officer or officers as the Governor-General of India in Council shall from time to time direct : postage stamps shall be considered as stamps issued by Government for the purpose of revenue, within the meaning of the Indian Penal Code ; and all sums of money realized by the sale of such stamps shall be carried in the public accounts to the credit of the Post Office.

38. The Governor-General of India in Council may from time to time make rules for the appointment and government of vendors of postage stamps, and thereby direct how and under what terms and conditions postage stamps may be supplied to them for sale ; and whether any and what security shall be given by such vendors ; and whether any and what remuneration or discount shall be allowed to them ; and how and in what manner, and at what time or times, such vendors shall keep and render their accounts, and pay over the proceeds of any sales made by them, or re-deliver the stamps entrusted to them.

NOTE.—Rules for the custody, distribution and sale of postage stamps labels are contained in the Post Office Notification, dated 1st December 1880.

39. Government vendors of postage stamps shall be bound by such rules, and in case of any wilful breach thereof shall be punished with a fine not exceeding two hundred rupees, in addition to any other proceedings to which they may be liable.

40. Any Government vendor of postage stamps who shall be convicted of refusing, or unnecessarily delaying without reasonable excuse, to furnish postage stamps to any person desiring to purchase the same, and tendering in lawful currency the full value thereof (the stamp vendor having in his possession for sale sufficient stamps of the description and value required); shall be punished with a fine not exceeding one hundred rupees.

41. Any Government vendor of postage stamps convicted of taking from a purchaser a higher price than the value denoted on the stamps sold, shall be punished on conviction with imprisonment of either description, as defined in the Indian Penal Code, for any term not exceeding six months, or shall be liable to a fine not exceeding one hundred rupees ; and shall also be liable to refund to the purchaser the whole amount proved to have been taken in excess, which amount may be recovered by such purchaser before a criminal Court, in the same manner as any penalty under this Act.

PART VII.

Offences against the Post Office.

42. No person shall knowingly post, or send, or tender, or deliver, in order to be sent by the post, any letter, parcel or packet containing any explosive or other dangerous material or substance ; and any person contravening this prohibition shall be punished for every such offence with a fine not exceeding two hundred rupees.

43. Every person who shall, for the purpose of defrauding the Post Office revenue, wilfully certify by writing on any official or other letter or packet delivered at any Post Office for conveyance by post, that which is not true in respect of such letter or packet, or in respect of the whole of its contents, or shall knowingly send or deliver, or attempt to send or deliver, for conveyance by post, any letter or packet with any such false certificate thereon; and every person who shall knowingly send or permit to be sent by post, under colour or pretence of an official communication, any letter, paper, writing or other enclosure of a private nature, shall, for every such offence, be punished with a fine not exceeding five hundred rupees.

44. It shall not be lawful for any person, unless acting by express order of the Government, to detain, except for a criminal offence, a Post Office messenger whilst carrying the mails, or to detain any carriage or horse upon which the mails are being carried, or on any pretence to open a packet or mail bag or box in transit from one Post Office to another, and every person who shall be guilty of any of the offences mentioned in this section, shall be punished with a fine not exceeding five hundred rupees.

NOTE.—All officers are strictly prohibited from detaining or opening Government mail bags, except under the circumstances set forth in this section.—(Notification No. 1478, dated 8th June 1867).

45. Every person who shall fraudulently retain or wilfully secrete, make away with, or keep or detain, or, being required to deliver up by an officer of the Post Office, shall neglect or refuse to deliver up a post letter or other article which ought to have been delivered to any other person, or a mail bag, box or packet containing a letter or other article which shall have been sent by the post, shall be punished, on conviction before a criminal Court, with imprisonment of either description as defined in the Indian Penal Code, for a term not exceeding two years, and shall also be liable to fine.

46. *Clause 1.*—Every person who shall convey, otherwise than by the post, a letter not excepted from the said exclusive privilege conferred on the Government of India by Section 5 of this Act, shall, for every letter so conveyed, forfeit a sum not exceeding fifty rupees.

Clause 2.—Every person who shall perform, otherwise than by the post, any services incidental to conveying letters from place to place, whether by receiving, taking up, ordering, collecting, carrying, tendering or delivering a letter or letters not excepted from the said exclusive privilege, shall forfeit for every such letter a sum not exceeding fifty rupees.

Clause 3.—Every person who shall make a collection of letters for the purpose of transmitting them through the post in a clubbed packet, and every person who shall knowingly tender or deliver a letter to be sent in a clubbed packet, shall forfeit for every such letter a sum not exceeding fifty rupees.

Clause 4.—Every person who shall send a letter not excepted from the said exclusive privilege, otherwise than by the post, or shall either tender or deliver a letter not so excepted, in order to be sent otherwise than by the post, shall forfeit for every such letter a sum not exceeding fifty rupees.

Penalty for sending letter in breach of privilege, or delivering letter to be so sent.

Clause 5.—Every person who shall make a collection of excepted letters for the purpose of sending them otherwise than by the post, shall forfeit for every such letter a sum not exceeding fifty rupees.

Penalty for collecting excepted letters to send them otherwise than by post.

Clause 6.—Every person who shall carry, receive, tender or deliver a letter, or collect letters contrary to the provisions of Section 6. Section 6 of this Act, shall forfeit for every such letter a sum not exceeding fifty rupees.

Clause 7.—Every person who shall be in the practice of committing any of the acts mentioned in this section, shall, for every week during which the practice shall be continued, forfeit a further sum not exceeding five hundred rupees.

Penalty for practice of acts mentioned in this section.

47. Every person employed to convey or deliver any mail bag or box, or any letter or other article sent by post, who shall be guilty, while so employed, of drunkenness, carelessness or other misconduct, whereby the safety of any such bag, box, or letter or other article shall be endangered; or who shall loiter or make delay in the conveyance or delivery of any such bag, box, letter or other article; or who shall not use proper care and diligence safely to convey or deliver any such bag, letter or other article, shall be liable to a fine not exceeding fifty rupees; and any person employed to deliver a letter or other article sent by the post, who shall not duly deliver the same, shall, within a reasonable time not exceeding twenty-four hours, report the fact at the Post Office where he received such letter or other article, and return the same, and if any such person shall wilfully make a false report, he shall be liable to a fine not exceeding fifty rupees.

48. Whoever, being in the employ of the Government in the Post Office Department, shall steal, fraudulently appropriate or wilfully secrete, destroy or throw away any letter or other article sent by post, or anything contained in any such letter or other article, or shall mutilate or break open any such letter or other article, or any mail bag or box, with the intention of fraudulently appropriating anything therein contained, shall be punished, on conviction before a criminal Court, with imprisonment of either description as defined in the Indian Penal Code, for a term not exceeding seven years, and shall also be liable to fine.

NOTE.—The Local Government has directed Magistrates to report to the Post Master General, Punjab, the sentences passed on Post Office officials on conviction of offences against the Post Office Act —(Punjab Government Circular No. 17—448, dated 30th March 1871).

49. Whoever being in such employ as last aforesaid, shall fraudulently put any wrong mark on any letter or other article, or shall fraudulently alter, remove or cause to disappear any mark or stamp which is on any letter or other article; or shall fraudulently use or place with or upon any letter or other article, any stamp which shall have been

Penalty for fraudulently altering marks on letters, &c., by persons employed in the Post Office.

removed from any other letter or other article; or, being entrusted with the delivery of any letter or other article, shall knowingly demand or receive any sum of money for the postage thereof other than the sum duly chargeable for such postage, shall be punished, on conviction before a criminal Court, with imprisonment of either description as defined in the Indian Penal Code, for a term not exceeding two years, and shall also be liable to fine.

50. Whoever being in such employ as last aforesaid, and being entrusted with the preparing or keeping of any document, shall, with a fraudulent intention, prepare the document incorrectly, or alter that document, or secrete or destroy that document, shall be punished, on conviction before a criminal Court, with imprisonment of either description as defined in the Indian Penal Code, for a term not exceeding two years, and shall also be liable to fine.

51. Whoever being in such employ as last aforesaid, shall send by the post, or put into any mail bag or box, any unstamped letter or other article upon which postage has not been paid or charged by persons employed in the Post Office, in this Act, intending thereby to defraud the Government of the postage on such letter or other article, shall be punished, on conviction before a criminal Court, with imprisonment of either description as defined in the Indian Penal Code for a term not exceeding two years, and shall also be liable to fine.

52. Whoever abets, within the meaning of the Indian Penal Code, or conceals any offence made punishable by this Act, shall be punished with the punishment provided for such offence.

53. Any person, whether a European British subject or not, who shall be guilty of any offence for which according to the provisions of this Act he shall be liable to a fine only, shall be punishable for such offence by any criminal Court upon summary conviction.

54. No conviction, order or judgment of any criminal Court, shall be quashed for error of form or procedure, but only on the merits; and it shall not be necessary to state on the face of the conviction, order, or judgment the evidence on which it proceeds, but the depositions taken or a copy of them shall be returned with the conviction, order, or judgment, and if no jurisdiction appears on the face of the conviction, order or judgment, but the depositions taken supply that defect, the conviction, order or judgment, shall be aided by what so appears in such depositions.

55. *Repealed by Act XII of 1876.*

56. All fines imposed under the authority of this Act, for offences punishable by fine only, by any criminal Court, may, in case of non-payment thereof, be levied by distress and sale of the goods and chattels of the offender, by warrant under the hand of any of the above-named officers. In case any such fine shall not be forthwith paid, any such officer may order the offender to be apprehended and detained in safe custody until the return can be conveniently made to such warrant of distress, unless the offender shall give

security to the satisfaction of such officer for his appearance at such place and time as shall be appointed for the return of the warrant of distress, and such officer may take security by way of recognizance or otherwise. If

Imprisonment if no sufficient distress, &c.

upon the return of such warrant, it shall appear that no sufficient distress can be had whereon to levy such fine, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such officer, by the confession of the party or otherwise, that he has not sufficient goods and chattels whereupon such fine or sum of money could be levied if a warrant of distress were issued, any such officer, by warrant under his hand, may commit the offender to prison, there to be imprisoned only, or to be imprisoned and kept to hard labor, according to the discretion of such officer, for any term not exceeding two calendar months where the amount of the fine shall not exceed fifty rupees, and for any term not exceeding four calendar months where the amount shall not exceed one hundred rupees, and for any term not exceeding six calendar months in any other case; the commitment to be determinable in each of the cases aforesaid on payment of the amount.

NOTE.—The words repealed by Act XII of 1876 have been omitted.

57. A share not exceeding one moiety of every fine imposed and recovered under this Act, may be awarded to the
Share of fine to informer. informer.

58. No proceedings shall be taken for the recovery of any fine imposed under the authority of his Act, for offences punishable by fine only, without an order of Government, or an order in writing under the hand of the Director General of the Post Office, or of a Post Master General, or other officer specially invested with the powers of a Post Master General.

59. If any public servant who shall be employed in the Post Office Department, or shall be appointed a vendor of postage stamps, or entrusted by the Government of India or any Local Government with the sale of postage stamps within the dominions of any Foreign Prince or State in India in alliance with Her Majesty, in which a post shall be established by the Government of India, shall, within the dominions of such Prince or State commit any act hereby prohibited, or omit to do any act hereby required to be done by any person similarly employed, appointed, or entrusted as aforesaid within British India, such public servant shall be guilty of an offence, and on conviction thereof shall be punished in the same manner as if such act had been done or omitted within British India; and every such person may be tried, convicted and punished either by fine or otherwise, according to the nature of the offence, by any Court or officer duly empowered by the Governor-General of India in Council, to take cognizance of offences committed in such dominions by public servants, or by any Court or Magistrate, or other competent officer in any part of British India, in the same manner as if the offence had been committed in such part.

60. If any officer in charge of a Post Office shall suspect that any letter or other article lying for delivery at his office contains any contraband article or any article on which duty is owing to Government; or that any letter or other article lying for delivery at the Post Office contains any writing or enclosure in contravention of the provisions of Sections 14, 16 or 43 of this Act, it shall be lawful
Letters, &c., suspected to contain contraband articles, or writing in contravention of this Act, how to be dealt with.

for such officer to summon the person to whom the letter or other article is directed, to attend at the Post Office by himself or agent, within forty-eight hours after the arrival thereof at that Post Office, and to open the same in the presence of the person to whom it is directed, or of that person's agent, and if that person shall not so attend by himself or agent, then to open it in the absence of that person. Provided that if the officer in charge be under the rank of a Post Master, he shall call in two respectable persons as witnesses before he shall open a letter or other article in the absence of the person to whom it is addressed: Provided also, that in all cases the opened letter or other article shall be subsequently delivered to the person to whom it is addressed, unless it be required for ulterior proceedings, and that the opening of the same and the circumstances connected therewith shall be immediately reported to the Post Master General. It shall also be lawful for any officer in charge of a Post Office to refuse to forward any parcel through the Post Office by sea to any foreign port, or to any place not on the continent of India, unless such parcel be accompanied by a custom house pass.

NOTE.—Ordered that the following Resolution be published in the *Gazette of India*:—

It has been brought to the notice of the Government of India, that articles liable to Sea Customs duty are frequently imported into India through the Letter Post, and thus escape the duty to which they are liable. Such importations are in direct contravention of the Indian Post Office Act, 1866, Section 60 of which Act declares that any cover supposed to contain articles subject to Customs duty may be opened by the Post Office authorities after due notice to attend has been given to the addressee.

His Excellency the Governor-General in Council desires to remind the public that the importation through the Letter Post of goods liable to duty is illegal, and to notify for general information that the provisions of Section 60 of Act XIV of 1866 will be strictly enforced.

Ordered, that this Resolution be communicated to the several Local Governments and Administrations, and for information and guidance to the Director General of the Post Office of India.

(*Government of India Notification, No. 1170, dated 7th March 1879*).

60A. Whenever any notification has been published under section nineteen of the Sea Customs Act, 1878, in respect of any newspaper, book, pamphlet, placard, broad-sheet or other document, any officer of the postal department empowered in this behalf by the Governor-General in Council, by name or in virtue of his office, may search or cause search to be made for any copies of the same in the custody of that department, and shall deliver all such copies found to such officer as the Governor-General in Council may appoint in this behalf by name or in virtue of his office, and such copies may be disposed of in such manner as the Governor-General in Council may from time to time direct.

NOTE.—The above section has been added by Act III of 1882.

61. Whenever an offence shall be committed in respect of any mail bag or box, or any letter or other article sent by the post, it shall be lawful to lay, in the charge to be preferred against the offender, the property of such mail bag, box, letter or other article in the Post Master General of the presidency; and it shall not be necessary in the charge to allege or to prove upon the trial or otherwise, that such mail bag, box, letter, or other article was of any value; and in any charge to be preferred against any person employed under the Post Office for any offence committed against this Act, it shall be lawful to state that such offender was employed under the Post Office at the time of committing the offence, without stating further the nature or particulars of his employment.

PART VIII.

Miscellaneous.

62. Letters and other articles on Her Majesty's service, certified to be such by the signature of any public officer authorized in that behalf by the Governor-General of India in Council, shall be forwarded by the post, and the postage due thereon shall be charged to, or recovered from the several public departments to or from which such letters or packets are sent, in such manner as the said Governor-General of India in Council shall from time to time direct.

63. It shall be lawful for the Governor-General of India in Council Governor-General in from time to time to frame rules for the conduct of Council may frame rules. the Post Office not inconsistent with this Act, and therein to prescribe the regulations, conditions and restrictions according to which all letters and other articles shall be posted, forwarded, conveyed and delivered.

NOTES.—(a). Under the provisions of Section 63 of the Indian Post Office Act, 1866, the Governor-General in Council is pleased to prescribe the following conditions under which the Post Office Department is authorised to accept cash payments in advance on account of the postage on newspapers to be transmitted by the Inland Post:—

The proprietor, manager, or publisher of any newspaper, as defined in the Post Office Act, may at his option, compound with the Post Office, by a cash payment made in advance, for the amount of postage payable on the number of copies of such newspaper to be posted by him, for transmission by the Inland Post during a given period.

Under the provisions of Section 20 of the same Act, the Governor-General in Council is further pleased to prescribe the following rates of postage at which cash payments in advance shall be made:—

For every copy of a newspaper not exceeding three tolas in weight... $\frac{1}{2}$ anna.

For every copy of a newspaper exceeding three tolas but not exceeding ten tolas in weight ... $\frac{1}{2}$ anna.

For every additional ten tolas or fraction of ten tolas ... $\frac{1}{2}$ anna.

Provided that copies of newspapers packed in bundles and transmitted through the Post to agents for sale shall be charged at half the above rates:

Provided also that exchange copies of newspapers sent gratuitously to the editors or managers of their newspapers shall be exempted from postage.

The Governor-General in Council is further pleased to authorise the Director General of the Post Office to issue from time to time such rules as may be necessary for carrying out this system. (*Government of India Notification No. 3463, dated 6th October 1881*).

(b). The transmission of opium by post, except on account of Government, has been prohibited under this section. (*Government of India Notification No. 3526, dated 17th September 1869, Gazette of India of 18th idem, page 287*). Also the transmission by post of firearms or ammunition into or within any part of Burma, except on account of Government (*No. 1535, dated 25th March 1887, Gazette of India of 26th idem, page 171*).

64. It shall be lawful for the Governor-General of India in Council from time to time to frame rules for the management of all or any zamindari, thana or other district daks, and to declare from time to time what portions of this Act shall be applicable to such daks, and to persons employed in connection therewith.

NOTE.—Under this section the Governor-General in Council has declared that the following sections of this Act shall be applicable to the District Daks in India and to the persons employed in connection therewith:—

Sections 25, 27, 35, 42, 43, 44, 45, 47, 48, 49, 50, 51 and 52.—(*Notification of the Government of India, Home Department, No. 1926, dated 25th February 1867—Gazette of India of 2nd March 1867, page 228*).

65. The Government shall not be responsible for any loss or damage which may occur in respect of anything entrusted to the Post Office for conveyance; and no person employed by the Government in the Post Office Government not responsible for loss.

Department shall be responsible for any such loss or damage, unless that person shall cause such loss or damage negligently, maliciously or fraudulently.

NOTES.—(a). The Governor-General has prescribed for general observance the following rules for enforcing the responsibility of Native States for mail robberies committed within their territories :

1. Every State is responsible for the secure passage throughout its territory of the Government mail and parcel post.

2. Where mails or parcel posts are plundered with impunity, in consequence of inefficient arrangements for their security on the high roads traversing a State, that State will be required to increase the guards which accompany the mails, and to strengthen its police stations along the high roads, or the same will be done by the British Government at the expense of the Native State.

3. Where mails or parcel posts are plundered, the Native State into which the plunderers are traced, and out of which they cannot be traced; will be expected to levy compensation from the district for the value of the plundered mails or parcel posts.

4. In estimating such compensation, no exemption whatever is to be made on account of bullion, jewelry or other articles of great intrinsic value.

5. Where men are disabled for life, or killed in the defence, or in the carriage of Government mails or parcel posts, claims to pensionary grants will be held to be against the State held responsible for the outrage.—(*Resolution of the Government of India, No. 1095, dated 18th July 1866—Gazette of India of 11th August 1866, page 1057*).

(b). Rules for the treatment of official correspondence were published as Notification No. 1446, dated 28th February 1873, in the *Punjab Gazette* of the 6th March 1873.

(c). Revised rules for the re-delivery of letters and articles delivered into the Post Office were published as Notification No. 2928, dated 14th November 1873, in the *Punjab Gazette* of 20th idem.

(d). Rules for the Issue and Payment of Inland and Foreign Money Orders by the Post Office were published as Government of India Notification No. 3178, dated 11th October 1879.

(e). For the memo. of agreement for the establishment of an overland Parcel Post, see No. 212, dated 17th April 1885, *Gazette of India* of 18th idem, page 255.

ACT No. XXI of 1866.

(Passed on the 2nd April 1866).

An Act to legalize, under certain circumstances, the dissolution of marriages of Native Converts to Christianity.

WHEREAS it is expedient to legalize, under certain circumstances, the dissolution of marriages of Native Converts to Christianity deserted or repudiated, on religious grounds,

Preamble.

by their wives or husbands ; It is enacted as follows :—

Short title.

1. This Act may be cited as " The Native Converts' Marriage Dissolution Act, 1866."

2. Repealed by Act XVI of 1874.

Interpretation of terms.

3. In this Act—

" Native Husband " shall mean a married man domiciled in British India, who shall have completed the age of sixteen

" Native Husband."

years, and shall not be a Christian, a Muhammadan, nor a Jew :

" Native Wife" shall mean a married woman domiciled in British India, who shall have completed the age of thirteen years,

" Native Wife."

and shall not be a Christian, a Muhammadan, nor a Jewess :

"Native Law" shall mean any law, or custom having the force of law, of any persons domiciled in British India other than Christians, Muhammadans, and Jews :

"Native Law."

"Month" and "year."

"Month" and "year" shall respectively mean month and year according to the British calendar ;

"High Court."

"High Court" shall mean the highest civil Court of appeal in any place to which this Act extends :

And, unless there be something repugnant in the subject or context, words importing the singular number shall include the plural, and words importing the plural number shall include the singular.

Number.

4. If a native husband change his religion for Christianity, and if in consequence of such change his native wife, for the space of six continuous months, desert or repudiate him, he may sue her for conjugal society.

Convert deserted by his wife on religious grounds may sue for conjugal society.

5. If a native wife change her religion for Christianity, and if in consequence of such change her native husband, for the space of six continuous months, desert or repudiate her, she may sue him for conjugal society.

Convert deserted by her husband on religious grounds may sue for conjugal society.

6. If the respondent, at the time of commencement of such suit, reside within the local limits of the ordinary original civil jurisdiction of any of the High Courts of Judicature, the suit shall be commenced in such Court : otherwise it shall be commenced in the principal civil Court of original jurisdiction of the district in which the defendant shall reside at the commencement of the suit.

Court in which suit shall be brought.

7. The suit shall be commenced by a petition in the form in the first schedule to this Act, or as near thereto as the circumstances of the case will allow. The statements made in the petition shall be verified by the petitioner in the manner required by law for the verification of plaints ; and the petition may be amended by permission of the Court.

Suit to be commenced by verified petition.

8. A copy of the petition shall be served upon the respondent, and the Court shall thereupon issue a citation under the seal of the Court and signed by the Judge.

On service of petition, citation issued to respondent.

9. In ordinary cases the citation shall be in the form in the second schedule to this Act, or as near thereto as the circumstances of the case will allow. But where the respondent is exempt by law from personal appearance in Court, or where the Judge shall so direct, the citation shall be in the form in the third schedule to this Act, or as near thereto as the circumstances of the case will allow.

Form of citation.

10. A copy of the citation sealed with the seal of the Court shall be served on the respondent ; and the provisions of the Code of Civil Procedure as to the service and endorsement of summonses shall apply, *mutatis mutandis*, to citations under this Act.

Service of citation.

11. If the respondent shall not obey such citation, and comply with every other requirement made upon her or him under the provisions of this Act, she or he shall be liable to punishment under Section 174 of the Indian Penal Code.

Procedure where respondent does not obey citation.

Points to be proved on appearance of petitioner.

12. On the day fixed in the citation, the petitioner shall appear in Court, and the following points shall be proved :—

- (1). The identity of the parties :
- (2). The marriage between the petitioner and the respondent :
- (3). That the male party to the suit has completed the age of sixteen years, and that the female party to the suit has completed the age of thirteen years :
- (4). The desertion or repudiation of the petitioner by the respondent :
- (5). That such desertion or repudiation was in consequence of the petitioner's change of religion ;
- (6). And that such desertion or repudiation had continued for the six months immediately before the commencement of the suit.

13. The respondent, if such points be proved to the satisfaction of the Judge, shall thereupon be asked whether she or he refuses to cohabit with the petitioner, and, if so, what is the ground of such refusal. In ordinary cases such interrogation and every other interrogation prescribed by this Act shall be made by the Judge, but when the respondent is exempt by law from personal appearance in Court, or when the Judge shall, in his discretion, excuse the respondent from such appearance, the interrogations shall be made by Commissioners acting under such commission as hereinafter mentioned.

14. Every interrogation mentioned in this Act and made by the Judge may, at the discretion of the Judge, take place in open Court or in his private room. If any such interrogation take place in open Court, the Judge may, so long as it shall continue, exclude from the Court all such persons as he shall think fit to exclude.

15. If the respondent be a female, and in answer to the interrogatories of the Judge or Commissioners, as the case may be, shall refuse to cohabit with the petitioner, the Judge, if upon consideration of the respondent's answers and of the facts which may have been proved by the petitioner, he shall be of opinion that the ground for such refusal is the petitioner's change of religion, shall make an order adjourning the case for a year, and directing that, in the interim, the parties shall, at such place and time as he shall deem convenient, have an interview of such length as the Judge shall direct, and in the presence of such person or persons (who may be a female or females) as the Judge shall select, with the view of ascertaining whether or not the respondent freely and voluntarily persists in such refusal.

16. At the expiration of such adjournment, the petitioner shall again appear in Court, and shall prove that the said desertion or repudiation had continued up to the time last hereinbefore referred to ; and if the points mentioned in the twelfth and this section of this Act shall be proved to the satisfaction of the Judge, and if the respondent on being interrogated by the Judge or Commissioners, as the case may be, again refuse to cohabit with the petitioner, the respondent shall be taken to have finally deserted or repudiated the petitioner,

and the Judge shall, by a decree under his hand, and sealed with the seal of the Court, declare that the marriage between the parties is dissolved.

17. If the respondent be a male, and in answer to the interrogatories of the Judge or Commissioners, as the case may be, shall refuse to cohabit with the petitioner, the Judge, if upon consideration of the respondent's answers and of the facts which may have been proved by the petitioner, he shall be of opinion that the ground for such refusal is the petitioner's change of religion, shall adjourn the case for a year. At the expiration of such adjournment, the petitioner shall again appear in Court; and if the respondent on being interrogated by the Judge or Commissioners, as the case may be, again refuse to cohabit with the petitioner, the Judge shall thereupon pass such a decree as last aforesaid: Provided that if the petitioner shall so desire (but not otherwise), the proceedings in the suit shall, *mutatis mutandis*, be the same as in the case of a female respondent.

18. Notwithstanding anything hereinbefore contained, if it shall appear at any stage of the suit that both or either of the parties had not attained puberty at the date of their marriage, and that such marriage has not been consummated; and if, in answer to the interrogatories made pursuant to the thirteenth section of this Act, the respondent shall refuse to cohabit with the petitioner, and allege, as the ground for such refusal, that the petitioner has changed his or her religion, the Judge shall thereupon pass such a decree as last aforesaid.

19. When any decree dissolving a marriage shall have been passed under the provisions of this Act, it shall be as lawful for the respective parties thereto to marry again as if the prior marriage had been dissolved by death, and the issue of any such re-marriage shall be legitimate, any native law to the contrary notwithstanding. Provided always that no minister of religion shall be compelled to solemnize the marriage of any person whose former marriage may have been dissolved under this Act, or shall be liable to any suit or penalty for refusing to solemnize the marriage of any such person.

20. In suits instituted under this Act, the Judge shall order a commission to issue to such persons, whether males or females or both, as he shall think fit, for the examination on interrogatories or otherwise of any persons so exempt as aforesaid. The provisions of the Code of Civil Procedure shall, so far as practicable, apply to commissions issued under this section.

21. At any stage of a suit instituted under this Act, cohabitation as man and wife shall be sufficient presumptive evidence of the marriage of the parties, and proof of the respondent's refusal, or voluntary neglect to cohabit with the petitioner, after his or her change of religion, and after knowledge thereof by the respondent, shall be sufficient evidence of the respondent's desertion or repudiation of the petitioner, and shall also be sufficient evidence that such desertion or repudiation was in consequence of the petitioner's change of religion, unless some other sufficient cause for such desertion or repudiation be proved by the respondent.

Provisions of Civil Procedure Code as to witnesses to apply in suits under this Act.

22. The provisions of the Code of Civil Procedure as to the summoning and examination of witnesses, shall apply in suits instituted under this Act.

23. If at any stage of the suit it be proved that the male party to the suit is or was at the institution thereof under the age of sixteen years, or that the female party to the suit is or was at the same time under the age of thirteen years, or that the petitioner and the respondent are cohabiting as man and wife, or if the Court is satisfied by the evidence adduced that the respondent is ready and willing so to cohabit with the petitioner, the Court shall pass a decree dismissing the suit and stating the ground of such dismissal.

Dismissal of suit if either party is under the age required by the Act, or if the parties are cohabiting, or the respondent is willing to cohabit.

24. If at any time within twelve months after a decree dismissing the suit upon any of the grounds mentioned in the last preceding section, the respondent again desert or repudiate the petitioner upon the ground of his or her change of religion, the suit may be revived by summoning the respondent; and upon proof of the former decree and of such renewed repudiation or desertion, the suit shall re-commence at the stage at which it had arrived immediately before the passing of such decree; and, after the proofs, interrogations, interview and adjournment which may then be requisite under the provisions hereinbefore contained, the Judge shall pass a decree of the nature mentioned in the sixteenth section of this Act.

Revival of suit after such dismissal.

25. If at any stage of the suit it be proved that the respondent has deserted or repudiated the petitioner solely or partly in consequence of the petitioner's cruelty or adultery, the Court shall pass a decree dismissing the suit and stating the ground of such dismissal. A suit dismissed under this section shall not be revived.

Petitioner's cruelty or adultery to bar the suit.

26. If the petitioner, being a male, has at the time of the institution of the suit two or more wives, he shall make them all respondents; and if at any stage of the suit it be proved that he is cohabiting with one of such wives as man and wife, or that any one of such wives is ready and willing so to cohabit with him, the Court shall pass a decree dismissing the suit and stating the ground of such dismissal. The provisions as to revival contained in the twenty-fourth section of this Act shall apply, *mutatis mutandis*, to a suit dismissed under this section.

Male petitioner's cohabitation with one of several wives to bar the suit.

27. A dissolution of marriage under the provisions of this Act shall not operate to deprive the respondent's children (if any) by the petitioner of their status as legitimate children, or of any right or interest which they would have had, according to the native law applicable to them, by way of maintenance, inheritance, or otherwise, in case the marriage had not been so dissolved as aforesaid.

Dissolution of marriage not to affect status or rights of children.

28. If a suit be commenced under the provisions of this Act, and it appear to the Court that the wife has not sufficient separate property to enable her to maintain herself suitable to her station in life and to prosecute or defend the suit, the Court may, pending the suit, order the husband to furnish the wife with sufficient

Power to Court to award alimony.

funds to enable her to prosecute or defend the suit, and also for her maintenance pending the suit. If the suit be brought by a husband against a wife, the Court may by the decree order the husband to make such allowance to his wife for her maintenance during the remainder of her life as the Court shall think just, and having regard to the condition and station in life of the parties. Any allowance so ordered shall cease from the time of any subsequent marriage of the wife.

29. No appeal shall lie against any order or decree made or passed by any Court in any suit instituted under this Act; but if, at any stage of the suit, the respondent shall allege by way of defence that the marriage between the parties has been dissolved by the conversion of the petitioner, and that consequently the petitioner is not a native husband or a native wife (as the case may be) within the meaning of this Act, the Judge, if he shall entertain any doubt as to the validity of such defence, shall, either of his own motion or on the application of the respondent, state the case and submit it with his own opinion thereon for the decision of the High Court.

30. Every such case shall concisely set forth such facts and documents as may be necessary to enable the High Court to decide the questions raised thereby, and the suit shall be stayed until the judgment of such Court shall have been received as hereinafter provided.

31. Every such case shall be decided by at least three Judges of the High Court, if such Court be the High Court at any of the presidency towns; and the petitioner and respondent may appear and be heard in the High Court in person or by advocate or vakil.

32. If the High Court shall not be satisfied that the statements contained in the case are sufficient to enable it to determine the questions raised thereby, the High Court may refer the case back to the Judge by whom it was stated, to make such additions thereto or alterations therein as the High Court may direct in that behalf.

33. It shall be lawful for the High Court, upon the hearing of any such case, to decide the questions raised thereby, and to deliver its judgment thereon containing the grounds on which such decision is founded; and it shall send to the Judge by whom the case was stated a copy of such judgment under the seal of the Court and the signature of the Registrar, and the Judge shall, on receiving the same, dispose of the case conformably to such judgment.

34. Nothing contained in this Act shall be taken to render invalid any marriage of a native convert to Roman Catholicism if celebrated in accordance with the rules, rites ceremonies and customs of the Roman Catholic Church.

NOTE.—The concluding portion of this section is repealed by Act XVI of 1874.

35. This Act shall extend to all the territories that are or shall become vested in Her Majesty or Her successors by the Statute 21 and 22 Vic., cap. 106, entitled "An

Extent of Act.

Act for the better Government of India," except the Settlement of Prince of Wales' Island, Singapore and Malacca.

NOTES.—(a). The concluding portion of this section is repealed by Act XVI of 1874.

(b). This Act is declared to be in force throughout the whole of British India, except the Scheduled Districts, by Act XV of 1874. It has also been declared to be in force in certain of the Scheduled Districts of the Punjab (*vide* Notes (a) and (b) to Act XIV of 1874).

THE FIRST SCHEDULE.

Form of Petition.



To the Judge of the Civil Court of
The day of 18

The petition of A B of
Sheweth :—

1. That petitioner was born on or about the day of 18
2. That your petitioner was on the day of in the year 18 lawfully married to C D at
3. That the said C D is now of the age of years or thereabouts.
4. That after his said marriage, your petitioner lived and cohabited with his said wife at aforesaid until the day of 18
5. That previous to the day of 18 your petitioner changed his religion for Christianity, and on such day he was baptized and became a member of the Church of
6. That on the day of 18 [at least six months prior to the date of the petition], the said C D deserted your petitioner, and has not since resumed cohabitation with him.
7. That such desertion was in consequence of your petitioner's said change of religion.
8. That there is no collusion nor connivance between your petitioner and the said C D.

Your petitioner therefore prays that your Honor will order the said C D to live and cohabit with your petitioner, or declare that your petitioner's marriage is dissolved.

A. B.

Form of verification.

I, A B, the petitioner named in the above petition, do declare that what is stated therein is true, to the best of my information and belief.

THE SECOND SCHEDULE.

Form of Citation in ordinary cases.

To C D of

Whereas A B of claiming to have been lawfully married to you the said C D has filed his [or her] petition against you in the Civil Court of alleging that you the said C D have deserted him [or her] for six months in consequence of his [or her] having changed his [or her] religion for Christianity, and praying that, unless you consent to live, and cohabit with him [or her], it may be declared that his [or her] marriage is dissolved: Now this is to command you that, at the expiration of days [at least one month] from the date of the service of this on you, you do appear in the said Court then and there to make answer to the said petition, a copy whereof, sealed with the seal of the said Court, is herewith served upon you.

And take notice that in default of your so appearing, you will be liable to punishment under Section 174 of the Indian Penal Code.

Dated day of 18

(Signed) E. F.

Judge of the Civil Court of

Indorsement to be made after service.

This citation was duly served by G. H. on the within named C. D. of at
on the day of 18

(Signed) G. H.

THE THIRD SCHEDULE.

Form of Citation in case of respondent exempt from appearance in Court.

To C D of

Whereas A B of claiming to have been lawfully married to you the said C D has filed his [or her] petition against you in the Civil Court of alleging that you the said C D have deserted him [or her] for six months in consequence of his [or her] having changed his [or her] religion for Christianity, and praying that, unless you consent to cohabit with him [or her], it may be declared that his [or her] marriage is dissolved. Now this is to command you that, at the expiration of days [at least one month] from the service of this on you, you do hold yourself in readiness to answer and do answer such interrogatories as may be put to you by Commissioners duly authorized in that behalf under a Commission issued by this Court in reference to the said petition, a copy whereof, sealed with the seal of the Court, is herewith served upon you.

And take notice that in default of your so holding yourself in readiness and answering such interrogatories, you will be liable to punishment under Section 174 of the Indian Penal Code.

Dated the day of 18 .

(Signed) E. F.

Judge of the Civil Court of

Indorsement to be made after service.

This citation was duly served by G. H. on the within named C. D. of at
on the day of 186 .

(Signed) G. H.

ACT No. XXVII of 1866.

(Passed on the 24th October 1866).

An Act to consolidate and amend the law relating to the conveyance and transfer of property in British India vested in Mortgagees and Trustees, in cases to which English law is applicable.

Whereas it is expedient to consolidate and amend the laws relating to the conveyance and transfer of moveable and immoveable property in British India vested in mortgagees and trustees, in cases to which English law is applicable; It is hereby enacted as follows:—

1. *Repealed by Act XIV of 1870.*

Interpretation.

2. In this Act, unless there be something repugnant in the subject or context—

“Immoveable property” shall extend to and include messuages, tenements and hereditaments, corporeal and incorporeal, of every tenure or description, whatever may be the estate or interest therein :

“Stock” shall mean any fund, annuity or security transferable in books kept by any company or society established or to be established, or transferable by deed alone, or by deed accompanied by other formalities, and any share or interest therein. It shall also include shares in ships registered under the Merchant Shipping Act, 1854, or at any port in British India :

“Hold” and “Holding” shall be applicable to any vested estate whether for life or of a greater or less description, in possession, futurity, or expectancy, in any immoveable property :

“Contingent right” as applied to immoveable property shall mean a contingent or executory interest, or possibility coupled with an interest, whether the object of the gift or

limitation of such interest or possibility be or be not ascertained; also a right of entry, whether immediate or future, and whether vested or contingent :

“Convey” and “Conveyance” applied to any person, shall mean the execution by such person of every necessary or suitable assurance for conveying or disposing to another immoveable property which such person holds, or in which he is entitled to a contingent right either for the whole estate of the person conveying or disposing, or for any less estate, together with the performance of all formalities required by law to the validity of such conveyance, including the acts to be performed by married women and tenants in tail in accordance with the provisions of Act XXXI of 1854 (*to simplify the modes of conveying land in cases to which the English law is applicable*) :

“Transfer” shall mean the execution and performance of every deed and act by which a person entitled to stock or Government securities can transfer such stock or Government securities from himself to another :

“High Court” shall mean every Court now or hereafter established under the Statute 24 & 25 Vic., cap. 104, and also the Chief Court of the Punjab, or such one or more Judges of the said Courts respectively as shall be appointed by the Chief Justice or the Senior Judge, as the case may be, to entertain applications and make orders under this Act.

“Trust” shall not mean the duties incident to an estate conveyed by way of mortgage: but with this exception, the words “Trust” and “Trustee” shall extend to and include implied and constructive trusts, and shall extend to and include cases where the trustee has some beneficial estate or interest in the subject of the trust, and shall extend to and include the duties incident to the office of executor or administrator of a deceased person :

“Lunatic” shall mean any person who shall have been found by due course of law to be of unsound mind and incapable of managing his affairs :

“Person of unsound mind” shall mean any person not a minor who, not having been found to be a lunatic, shall be incapable from infirmity of mind to manage his own affairs :

In the case of a will made or an intestacy occurring before the first day of January 1866, “Heir” shall mean the person claiming an interest in the immoveable property of a deceased person under the laws concerning descent applicable to such property : and “Devisee” shall, in addition to its ordinary signification, mean the heir of a devisee and the devisee of an heir, and generally any person claiming an interest in the immoveable property of a deceased person, not as heir of such deceased person, but by a title dependent solely upon the operation of the laws concerning devise and descent :

In the case of a will made or an intestacy occurring on or after the first day of January 1866, “Heir” shall mean any person claiming interest in the immoveable property of a deceased person under the rules for the distribution of an intestate’s estate ; and “Devisee” shall mean any person taking immoveable property under a bequest, and any person, other than an

executor or administrator, claiming an interest in immoveable property not as entitled thereto under the said rules, but by a title dependent solely upon the operation of the laws concerning intestate and testamentary succession :

“ Mortgage ” shall be applicable to every estate or interest in immoveable or moveable property which would in the High Court be deemed merely a security for money :

“ Person ” shall include any company or association, or body of persons whether incorporated or not :

Words importing the singular number only shall extend to several persons or things ; words importing the plural number shall apply to one person or thing ; words importing the masculine gender shall extend to a female.

3. The powers and authorities given by this Act to the High Court shall and may be exercised only in cases to which English law is applicable, and may be exercised with respect to property within the local limits of the extraordinary original civil jurisdiction of the said Courts respectively.

The High Court to have jurisdiction in what cases.

4. When any lunatic or person of unsound mind shall hold any immoveable property upon any trust or by way of mortgage, it shall be lawful for the High Court to make an order that such property be vested in such person or persons in such manner and for such estate as the said Court shall direct; and the order shall have the same effect as if the trustee or mortgagee had been sane, and had duly executed a conveyance of the property in the same manner for the same estate.

High Court may convey estates of lunatic trustees and mortgagees;

5. When any lunatic or person of unsound mind shall be entitled to any contingent right in any immoveable property upon any trust or by way of mortgage, it shall be lawful for the High Court to make an order wholly releasing such property from such contingent right, or disposing of the same to such person or persons as the said High Court shall direct; and the order shall have the same effect as if the trustee or mortgagee had been sane and had duly executed a deed so releasing or disposing of the contingent right.

And may convey contingent rights.

6. When any lunatic or person of unsound mind shall be solely entitled to any stock or Government securities or to any thing in action upon any trust or by way of mortgage, it shall be lawful for the High Court to make an order vesting in any person or persons the right to transfer such stock or Government securities, or to receive the dividends, interest, or income thereof, or to sue for and recover such thing in action, or any interest in respect thereof: and when any person or persons shall be entitled jointly with any lunatic or person of unsound mind to any stock or Government securities or thing in action upon any trust or by way of mortgage, it shall be lawful for the said Court to make an order vesting the right to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for and recover such thing in action or any interest in respect thereof, either in such per-

High Court may transfer stock or Government securities of lunatic trustees and mortgagees.

son or persons so jointly entitled as aforesaid, or in such last mentioned person or persons together with any other person or persons the said High Court may appoint.

7. When any stock or Government securities shall be standing in the name of any deceased person whose executor or administrator is a lunatic or person of unsound mind, or when any thing in action shall be vested in any lunatic or person of unsound mind as the executor or administrator of a deceased person, it shall be lawful for the High Court to make an order vesting the right to transfer such stock or Government securities, or to receive the dividends, interest, or income thereof, or to sue for and recover such thing in action, or any interest in respect thereof, in any person or persons the said Court may appoint.

8. Where any minor shall hold any immoveable property upon any trust or by way of mortgage, it shall be lawful for the High Court to make an order vesting such property in such person or persons in such manner and for such estate as the said Court shall direct; and the order shall have the same effect as if the minor trustee or mortgagee had attained his majority, and had duly executed a conveyance of the property in the same manner for the same estate.

9. Where any minor shall be entitled to any contingent right in any immoveable property upon any trust or by way of mortgage, it shall be lawful for the High Court to make an order wholly releasing such property from such contingent right, or disposing of the same to such person or persons as the said Court shall direct; and the order shall have the same effect as if the minor had attained his majority, and had duly executed a deed so releasing or disposing of the contingent right.

10. When any person solely holding any immoveable property upon any trust shall be out of the jurisdiction of the High Court, or cannot be found, it shall be lawful for the said Court to make an order vesting such property in such person or persons in such manner and for such estate as the said Court shall direct, and the order shall have the same effect as if the trustee had duly executed a conveyance of the property in the same manner and for the same estate.

11. When any person or persons shall hold any immoveable property in trust jointly with a person not within the jurisdiction of the High Court, or who cannot be found, it shall be lawful for the said Court to make an order vesting the property in the person or persons so jointly holding, or in such last-mentioned person or persons together with any other person or persons, in such manner and for such estate as the said Court shall direct; and the order shall have the same effect as if the trustee out of the jurisdiction, or who cannot be found, had duly executed a conveyance of the property in the same manner for the same estate.

12. When any person solely entitled to a contingent right in any immoveable property upon any trust shall be out of the jurisdiction of the High Court, or cannot be found, it shall be lawful for the said Court to make

an order wholly releasing such property from such contingent right, or disposing of the same to such person or persons as the said Court shall direct; and the order shall have the same effect as if the trustee had duly executed a conveyance so releasing or disposing of the contingent right.

13. When any person jointly entitled with any other person or persons to a contingent right in any immoveable property upon any trust shall be out of the jurisdiction of the High Court, or cannot be found, it shall be lawful for the said Court to make an order disposing of the contingent right of the person out of the jurisdiction, or who cannot be found, to the person or persons so jointly entitled as aforesaid, or to such last-mentioned person or persons together with any other person; and the order shall have the same effect as if the trustee out of the jurisdiction, or who cannot be found, had duly executed a conveyance so releasing or disposing of the contingent right.

14. When there shall have been two or more persons jointly holding any immoveable property upon any trust, and it shall be uncertain which of such trustees was the survivor, it shall be lawful for the High Court to make an order vesting such property in such person or persons, in such manner and for such estate as the said Court shall direct; and the order shall have the same effect as if the survivor of such trustees had duly executed a conveyance of the property in the same manner for the same estate.

15. When any one or more person or persons shall have held any immoveable property upon any trust, and it shall not be known, as to the trustee last known to have held such property, whether he be living or dead, it shall be lawful for the High Court to make an order vesting such property in such person or persons in such manner and for such estate as the said Court shall direct; and the order shall have the same effect as if the last trustee had duly executed a conveyance of the property in the same manner for the same estate.

16. When any person holding any immoveable property upon any trust shall have died intestate as to such property without an heir, or shall have died, and it shall not be known who is his heir or devisee, it shall be lawful for the High Court to make an order vesting such property in such person or persons, in such manner and for such estate as the said Court shall direct; and the order shall have the same effect as if the heir or devisee of such trustee had duly executed a conveyance of the property in the same manner for the same estate.

17. When any immoveable property is subject to a contingent right in an unborn person, or class of unborn persons who, upon coming into existence, would in respect thereof hold such property upon any trust, it shall be lawful for the High Court to make an order which shall wholly release and discharge such property from such contingent right in such unborn person or class of unborn persons, or to make an order which shall vest in any person or persons the estate or estates which such unborn person or class of unborn persons would, upon coming into existence, hold in such property.

18. In every case where any person holds or shall hold jointly or solely any immoveable property, or is or shall be entitled to a contingent right therein upon any trust, and a demand shall have been made upon such trustee by a person entitled to require a conveyance of such property, or a duly authorized agent of such last-mentioned person, requiring such trustee to convey the same, or to release such contingent right, it shall be lawful for the High Court, if the said Court shall be satisfied that such trustee has wilfully refused or neglected to convey the said property for the space of twenty-eight days after such demand, to make an order vesting such property in such person or persons, in such manner and for such estate as the Court shall direct, or releasing such contingent right in such manner as the Court shall direct; and the said order shall have the same effect as if the trustee had duly executed a conveyance of the property, or a release of such right, in the same manner and for the same estate.

19. When any person to whom any immoveable property has been conveyed by way of mortgage, shall have died without having entered into the possession or into the receipt of the rents and profits thereof, and the money due in respect of such mortgage shall have been paid to a person entitled to receive the same, or such last-mentioned person shall consent to an order for the reconveyance or vesting of such property, then in any of the following cases it shall be lawful for the High Court to make an order vesting such property in such person or persons, in such manner and for such estate, as the said Court shall direct, that is to say,—

When an heir or devisee of such mortgagee shall be out of the jurisdiction of the High Court, or cannot be found :

When an heir or devisee of such mortgagee shall, upon a demand by a person entitled to require a conveyance of such property, or a duly authorized agent of such last-mentioned person, have stated in writing that he will not convey the same, or shall not convey the same for the space of twenty-eight days next after a proper deed for conveying such property shall have been tendered to him by a person entitled as aforesaid, or a duly authorized agent of such last-mentioned person :

When it shall be uncertain which of several devisees of such mortgagee was the survivor :

When it shall be uncertain as to the survivor of several devisees of such mortgagee, or as to the heir of such mortgagee, whether he be living or dead :

When such mortgagee shall have died intestate as to such property, and without an heir, or shall have died, and it shall not be known who is his heir or devisee :

And the order of the said High Court made in any one of the foregoing cases, shall have the same effect as if the heir or devisee, or surviving devisee, as the case may be, had duly executed a conveyance of the property in the same manner and for the same estate.

20. In every case where the High Court shall, under the provisions of this Act, be enabled to make an order having the effect of a conveyance of any immoveable property, or having the effect of a release or disposition of the

Power to appoint a person to convey in certain cases.

contingent right of any person or persons, born or unborn, it shall also be lawful for the High Court, should it be deemed more convenient, to make an order appointing a person to convey such property, or release, or dispose of such contingent right; and the conveyance, or release or disposition of the person so appointed, shall, when in conformity with the terms of the order by which he is appointed, have the same effect, in conveying the property, or releasing, or disposing of the contingent right, as an order of the High Court would in the particular case have had under the provisions of this Act. In every case where the High Court shall, under the provisions of this Act, be enabled to make an order vesting in any person or persons the right to transfer any stock transferable in the books of any company or society established, or to be established, it shall also be lawful for the High Court, if it be deemed more convenient, to make an order directing the secretary, or any officer of such company, or society, at once to transfer or join in transferring the stock to the person or persons to be named in the order; and this Act shall be a full and complete indemnity and discharge to all companies or societies, and their officers and servants for all acts done, or permitted to be done, pursuant thereto.

21. When any person or persons shall be jointly entitled with any person out of the jurisdiction of the High Court, or who cannot be found, or concerning whom it shall be uncertain whether he be living or dead, to any stock, or Government securities, or thing in action upon any trust, it shall be lawful for the said Court to make an order vesting the right to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for or recover such thing in action or any interest in respect thereof, either in such person or persons so jointly entitled as aforesaid, or in such last-mentioned person or persons together with any person or persons the said Court may appoint. When any sole trustee of any stock, Government securities, or thing in action shall be out of the jurisdiction of the said Court, or cannot be found, or it shall be uncertain whether he be living or dead, it shall be lawful for the said Court to make an order vesting the right to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for and recover such thing in action, or any interest in respect thereof, in any person or persons the said Court may appoint.

22. Where any sole trustee of any stock, Government securities, or thing in action, shall neglect or refuse to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for or recover such thing in action, or any interest in respect thereof, according to the direction of the person absolutely entitled thereto, for the space of twenty eight days next after a request in writing for that purpose shall have been made to him by the person absolutely entitled thereto, it shall be lawful for the High Court to make an order vesting the sole right to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for and recover such thing in action, or any interest in respect thereof, in such person or persons as the said Court may appoint.

23. Where any one of the trustees of any stock, Government securities, or thing in action, shall neglect or refuse to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for or recover such thing in action accord-
When one of several trustees of stock, &c., refuses to transfer or receive and pay over dividends.

ing to the direction of the person absolutely entitled thereto, for the space of twenty-eight days next after a request in writing for that purpose shall have been made to him by such person, it shall be lawful for the High Court to make an order vesting the right to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for and recover such thing in action, in the other trustee or trustees of the said stock, Government securities, or thing in action, or in any person or persons whom the said Court may appoint jointly with such other trustee or trustees.

24. When any stock or Government securities shall be standing in

When stock, &c., is the sole name of a deceased person, and his executor or administrator shall be out of the jurisdiction of the High Court, or cannot be found, or it shall be uncertain whether such executor or administrator be living or dead, or such executor or administrator shall neglect or refuse to transfer such stock or Government securities, or receive the dividends, interest or income thereof, according to the direction of the person absolutely entitled thereto, for the space of twenty-eight days next after a request in writing for that purpose shall have been made to him by the person entitled as aforesaid, it shall be lawful for the said Court to make an order vesting the right to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, in any person or persons whom the said Court may appoint.

25. When any order shall have been made under this Act, vesting

Effect of an order vesting the legal right to transfer stock, &c. the right to any stock or Government securities in any person or persons appointed by the High Court, such legal right shall vest accordingly, and thereupon the person or persons so appointed are hereby authorized and empowered to execute all deeds and powers of attorney, and to perform all acts relating to the transfer of such stock and Government securities into his or their own name or names or otherwise, or relating to the receipt of the dividends, interest or income thereof, to the extent and in conformity with the terms of such order. All companies and associations whatever, and all persons, shall be equally bound and compellable to comply with the requisitions of such person or persons so appointed as aforesaid, to the extent and in conformity with the terms of such order; as such companies, associations or persons would have been bound and compellable to comply with the requisitions of the person in whose place such appointment shall have been made, and shall be equally indemnified in complying with the requisition of such person or persons so appointed as they would have been indemnified in complying with the requisition of the person in whose place such appointment shall have been made. After notice in writing of any such order of the High Court concerning any stock or Government securities shall have been given, it shall not be lawful for any company or association, or any person having received such notice, to act upon the requisition of the person in whose place an appointment shall have been made, in any matter relating to the transfer of such stock or Government securities, or the payment of the dividends, interest or income thereof.

26. Where any order shall have been made under this Act by the

Effect of an order vesting legal right in a thing in action. High Court vesting the legal right to sue for or recover any thing in action, or any interest in respect thereof, in any person or persons, such legal right shall vest accordingly; and thereupon it shall be lawful for the person or per-

sons so appointed to carry on, commence and prosecute, in his or their own name or names, any suit or other proceeding for the recovery of such thing in action, in the same manner in all respects as the person in whose place an appointment shall have been made could have sued for or recovered such thing in action.

27. Where any person shall neglect or refuse to transfer any stock or Government securities, or to receive the dividends,

On neglect to transfer stock, &c., for twenty-eight days, order may be made vesting right to transfer in such person as the Court shall appoint.

interest or income thereof, or to sue for or recover any thing in action, or any interest in respect thereof, for the space of twenty-eight days next after an order of the High Court for that purpose shall have been served upon him, it shall be lawful for the said

Court to make an order vesting all the right of such person to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for and recover such thing in action, or any interest in respect thereof, in such person or persons as the said Court may appoint.

28. When any stock or Government securities shall be standing in the

On like neglect by executor, similar order may be made.

sole name of a deceased person, and his executor or administrator shall refuse or neglect to transfer such stock or Government securities, or receive the

dividends, interest or income thereof for the space of twenty-eight days next after an order of the High Court for that purpose shall have been served upon him, it shall be lawful for the said Court to make an order vesting the right to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, in any person or persons whom the said Court may appoint.

29. When any order being or purporting to be under this Act shall be made by the High Court, vesting the right to any

Companies and associations to comply with such orders.

stock or Government securities, or vesting the right to transfer any stock or Government securities, or

vesting the right to call for the transfer of any stock or Government securities, in any person or persons, in every such case the legal right to transfer such stock or Government securities shall vest accordingly; and the person or persons so appointed shall be authorized and empowered to execute all deeds and powers of attorney, and to perform all acts relating to the transfer of such stock or Government securities into his or their own name or names or otherwise to the extent and in conformity with the terms of the order. All companies and associations, and all persons shall be equally bound and compellable to comply with the requisitions of such person or persons so appointed as aforesaid, to the extent and in conformity with the terms of such order, as such companies, associations or persons would have been bound and compellable to comply with the requisitions of the person in whose place such appointment shall have been made.

30. When any minor shall be solely entitled to any stock or Government securities upon any trust, it shall be lawful for

Power to make an order for the transfer or receipt of dividends of stock, &c., in name of a minor trustee.

the High Court to make an order vesting in any person or persons the right to transfer such stock or Government securities or to receive the dividends,

interest or income thereof. When any minor shall be entitled jointly with any other person or persons to any stock or Government securities upon any trust, it shall be lawful for the said Court, to make an order vesting the right to transfer such stock or Government securities, or to receive the

dividends, interest or income thereof, either in the person or persons jointly entitled with the minor, or in him or them together with any other person or persons the said Court may appoint.

31. When a decree or order shall have been made by the High Court directing the sale of any immoveable property for the payment of the debts of a deceased person, every person holding such property, or entitled to a contingent right therein, as heir, or under the will of such deceased debtor shall be deemed so to hold or be entitled (as the case may be) upon a trust within the meaning of this Act; and the High Court is hereby empowered to make an order wholly discharging the contingent right under the will of such deceased debtor of any unborn person.

NOTE.—The above section has been repealed by Act IV of 1882 in those territories to which the said Act applies.

32. When any decree or order shall have been made by the High Court, whether before or after the passing of this Act, directing the sale of any immoveable property for any purpose whatever, every person holding such property, or entitled to a contingent right therein, being a party to the suit or proceeding in which such decree or order shall have been made, and bound thereby, or being otherwise bound by such decree or order, shall be deemed so to hold or be entitled (as the case may be) upon a trust within the meaning of this Act. In every such case, it shall be lawful for the High Court, if the said Court shall think it expedient for the purpose of carrying such sale into effect, to make an order vesting such property or any part thereof, for such estate as the Court shall think fit, either in any purchaser or in such other person as the Court shall direct. Every such order shall have the same effect as if the person so holding or entitled had been free from all disability, and had duly executed all proper conveyances and assignments of such property for such estate.

33. Where any decree or order shall be made by the High Court for the specific performance of a contract concerning any immoveable property, for the partition or exchange of any immoveable property, or generally when any decree shall be made for the conveyance of any immoveable property, either in cases arising out of the doctrine of election or otherwise, it shall be lawful for the said Court to declare that any of the parties to the said suit wherein such decree is made are trustees of immoveable property comprised in any suit, and as to the interests of persons unborn. Court to declare what parties are trustees of immoveable property comprised in any suit, and as to the interests of persons unborn. the doctrine of election or otherwise, it shall be lawful for the said Court to declare that any of the parties to the said suit wherein such decree is made are trustees of such property or any part thereof, within the meaning of this Act, or to declare concerning the interests of unborn persons who might claim under any party to the said suit, or under the will or voluntary settlement of any person deceased who was during his life-time a party to the contract or transactions concerning which such decree is made, that such interests of unborn persons are the interests of persons who, upon coming into existence, would be trustees within the meaning of this Act. Thereupon it shall be lawful for the High Court to make such order or orders as to the estates, rights and interests of such persons, born or unborn, as the said Court might, under the provisions of this Act, make concerning the estates, rights and interests of trustees born or unborn.

34. It shall be lawful for the High Court to make declarations and give directions concerning the manner in which the right to any stock, Government securities, or thing in action vested under the provisions of this Act Power to make directions concerning the right to transfer stock shall be exercised.

shall be exercised, and thereupon the person or persons in whom such right shall be vested shall be compellable to obey such directions and declarations by the same process as that by which other orders under this Act are enforced.

35. In all cases in which it shall be expedient to appoint a new trustee or new trustees, and it shall be found inexpedient, difficult or impracticable so to do without the assistance of the High Court, it shall be lawful for the said Court to make an order appointing a new trustee, or new trustees whether there be any existing trustee or trustees or not at the time of making such order, and if there be such trustee or trustees, either in substitution for or in addition to him or them. The person or persons who, upon the making of such order shall be trustee or trustees, shall have the same rights and powers as he or they would have had if appointed by decree in a suit duly instituted.

Power to Court to make order appointing new trustees.

New trustee to have powers of trustees appointed by decree in suit.

36. It shall be lawful for the High Court, upon making any order for appointing a new trustee or new trustees, either by the same or by any subsequent order, to direct that any immoveable property subject to the trust shall vest in the person or persons who upon the appointment shall be the trustee or trustees, for such estate as the Court shall direct. Such order shall have the same effect as if the person or persons who, before such order was or were the trustee or trustees (if any) had duly executed all proper conveyances of such property for such estate.

Power to Court to vest immoveable property in new trustee.

37. It shall be lawful for the High Court, upon making any order for appointing a new trustee or trustees, either by the same or by any subsequent order, to vest the right to call for a transfer of any stock or Government securities subject to the trust, or to receive the dividends, interest or income thereof, or to sue for or recover any thing in action subject to the trust, or any interest in respect thereof, in the person or persons who upon the appointment shall be the trustee or trustees.

Power to Court to vest right to sue in new trustees.

38. Any such appointment by the High Court of new trustees, and any such conveyance or transfer as aforesaid, shall operate no further or otherwise as a discharge to any former or continuing trustee, than an appointment of new trustees under any power for that purpose contained in any instrument would have done.

Old trustees not to be discharged from liability.

39. An order under any of the hereinbefore contained provisions for the appointment of a new trustee or new trustees, or concerning any immoveable property, stock or Government securities, or thing in action subject to a trust, may be made upon the application of any person beneficially interested in such immoveable property, stock, Government securities, or thing in action, whether under disability or not, or upon the application of any person duly appointed as a trustee thereof; and an order under any of the provisions hereinbefore contained, concerning any immoveable property, stock, Government securities or thing in action subject to a mortgage, may be made on the application of any person beneficially interested in the equity of redemption, whether under disability or not, or of any person interested in the monies secured by such mortgage.

Who may apply.

40. When any person shall deem himself entitled to an order under any of the provisions hereinbefore contained, it shall be lawful for him to present a petition to the High Court for such order as he may deem himself entitled to, and he may give evidence by affidavit or otherwise in support of such petition before the said Court, and may serve such person or persons with notice of such petition as he may deem entitled to service thereof.

41. Upon the hearing of any such petition, it shall be lawful for the said High Court, should it be deemed necessary, to direct a reference to one of the Judges of the Court to inquire into any facts which require such an investigation, or it shall be lawful for the said Court to direct such petition to stand over, to enable the petitioner to adduce evidence or further evidence before the Court, or to enable notice or any further notice of such petition to be served upon any person or persons.

42. Upon the hearing of any such petition, it shall be lawful for the High Court to dismiss such petition with or without costs, or to make an order thereupon in conformity with the provisions of this Act.

43. Whosoever in any cause or matter, either by the evidence adduced therein, or by the admissions of the parties, or by report of one of the Judges of the Court, the facts necessary for an order under this Act shall appear to the High Court to be sufficiently proved, it shall be lawful for the said Court, either upon the hearing of the said cause or of any petition or application in the said cause or matter, to make such order under this Act.

44. Whenever any order shall be made under this Act by the High Court, for the purpose of conveying any immoveable property, or for the purpose of releasing or disposing of any contingent right, and such order shall be founded on an allegation of the personal incapacity of a trustee or mortgagee, or on an allegation that a trustee or the heir or devisee of a mortgagee is out of the jurisdiction of the High Court, or cannot be found, or that it is uncertain which of several trustees, or which of several devisees of a mortgagee was the survivor, or whether the last trustee, or the heir, or last surviving devisee of a mortgagee, be living or dead, or on an allegation that any trustee or mortgagee has died intestate without an heir, or has died and it is not known who is his heir or devisee, then in any of such cases the fact that the High Court has made an order upon such an allegation, shall be conclusive evidence of the matter so alleged in any Court of civil judicature upon any question as to the legal validity of the order: Provided always, that nothing herein contained shall prevent the High Court directing a re-conveyance of any immoveable property conveyed or assigned by any order under this Act, or a re-disposition of any contingent right conveyed or disposed of by such order: and it shall be lawful for the said Court to direct any of the parties to any suit concerning such property or contingent right, to pay any costs occasioned by the order under this Act, when the same shall appear to have been improperly obtained.

45. It shall be lawful for the High Court to exercise the powers herein conferred for the purpose of vesting any immoveable property, stock, or Government securities of thing in action in the trustee or trustees of any charity or society

over which charity or society the High Court would have jurisdiction upon suit duly instituted, whether such trustee or trustees shall have been duly appointed by any power contained in any deed or instrument, or by the decree of the said Court, or by order made upon a petition to the said Court.

46. Where any minor or person of unsound mind shall be entitled to any money payable in discharge of any immoveable property, stock, Government securities, or thing in action conveyed or transferred under this Act, it shall be lawful for the person by whom such money is payable to pay the same into the High Court, in trust in any cause then depending concerning such money, or if there shall be no such cause, to the credit of such minor or person of unsound mind, subject to the order or disposition of the said Court; and it shall be lawful for the said Court, upon petition in a summary way, to order any money so paid to be invested in Government securities, and to order payment or distribution thereof, or payment of the dividends or interest thereof, as to the said Court shall seem reasonable.

47. Where in any suit commenced or to be commenced in the High Court, it shall be made to appear to the Court that diligent search and enquiry have been made after any person made a defendant, who is only a trustee, to serve him with the process of the Court, and that he cannot be found, it shall be lawful for the said Court, to hear and determine such cause, and to make such absolute decree therein against every person who shall appear to it to be only a trustee, and not otherwise concerned in interest in the matter in question, in such and the same manner as if such trustee had been duly served with the process of the Court, and had appeared at the hearing of such cause: Provided always, that no such decree shall bind, affect, or in any wise prejudice any person against whom the same shall be made, without service of process upon him as aforesaid, his heirs, executors, or administrators for or in respect of any estate, right or interest which such person shall have at the time of making such decree for his own use or benefit, or otherwise than as a trustee as aforesaid.

48. Every order to be made under this Act, which shall have the effect of a conveyance of any immoveable property, or a transfer of any such stock, Government securities, or thing in action as can only be transferred by stamped deed, or for the transfer of which a stamp is necessary, shall be chargeable with the like amount of stamp duty as it would have been chargeable with if it had been a deed executed or a transfer made by the person or persons holding such property or entitled to such stock, Government securities, or thing in action. Every such order shall be duly stamped for denoting the payment of the said duty.

49. The High Court may order the costs and expenses of and relating to the petitions, orders, directions, conveyances and transfers to be made in pursuance of this Act, or any of them, to be paid and raised out of or from the immoveable or moveable property, or the rents or produce thereof, in respect of which the same respectively shall be made, or in such manner as the said Court shall think proper.

50. Upon any petition being presented under this Act to the High Court concerning a person of unsound mind, it shall be lawful for the said Court to make an order directing an enquiry whether such person is or is not of

unsound mind, and incapable of managing himself and his affairs. Such order shall have the same effect as the like order made under Section 1 of Act XXXIV of 1858 (*to regulate proceedings in Lunacy in the Courts of Judicature established by Royal Charter*), and the enquiry directed to be made shall be made in all respects in the manner declared and prescribed for making an enquiry under the last-mentioned Act. The High Court may postpone making any order upon the petition presented as aforesaid, until any enquiry so directed to be made shall have been finally concluded.

51. Upon any petition under this Act being presented to the High Court, it shall be lawful for the said Court to postpone making any order upon such petition, until the right of the petitioner shall have been declared in a suit duly instituted for that purpose.

52. Every order made or purporting to be made under this Act by the High Court shall be a complete indemnity to all persons whatsoever for any act done pursuant thereto, and it shall not be necessary for such persons to enquire concerning the propriety of such order, or whether the High Court has jurisdiction to make the same.

Indemnity to all persons obeying orders passed under this Act.

53. Any order made by the High Court under this Act shall have the same effect and be executed in the same manner as a decree.

Short Title.

54. This Act may be cited as "The Indian Trustee Act, 1866."

55. *Repealed by Act XVI of 1874.*

ACT No. XXVIII of 1866.

(Passed on the 24th October 1866).

An Act to give to Trustees, Mortgagees and others, in cases to which English Law is applicable, certain powers now commonly inserted in Settlements, Mortgages and Wills, and to amend the Law of property and relieve Trustees.

Whereas it is expedient that in cases to which English law is applicable, certain powers and provisions usually inserted in settlements, mortgages, wills and other instruments should be made incident to the estates of the persons interested, so as to dispense with the necessity of inserting the same in terms in every such instrument, and that in such cases trustees should be relieved; It is enacted as follows:—

Preamble.

Interpretation of terms.

1. In the construction of this Act, unless there be something repugnant in the subject or context—

"Immoveable property" shall include land, any benefit to arise out of land, and things attached to the earth or permanently fastened to anything which is attached to the earth:

"Immoveable property."

earth:

"Mortgage" shall be taken to include every instrument by virtue where-
 "Mortgage." of immoveable property is in any manner conveyed,
 pledged, or charged as security for the repayment
 of money or money's worth lent, and to be re-conveyed or released on
 satisfaction of the debt :

"Mortgagor" shall be taken to include every person by whom any
 "Mortgagor." such conveyance, pledge, or charge as aforesaid
 shall be made :

"Mortgagee" shall be taken to include every person to whom or in
 "Mortgagee." whose favor any such conveyance, pledge or charge
 as aforesaid is made or transferred : and

"High Court" means any Court established or to be established under
 "High Court." Statute 24 & 25 Vic., cap. 104, and includes the
 Chief Court of the Punjab.

NOTE.—The concluding portion of the section is repealed by Act XVI of 1874.

2—5. Repealed by Act II of 1882.

Powers of Mortgagees.

6. Where any principal money is secured or charged by deed on any
 immoveable property, or on any interest therein,
 Powers incident to mortgagees. the person to whom such money shall for the time
 being be payable, his executors, administrators, and
 assigns, shall, at any time after the expiration of one year from the time
 when such principal money shall have become payable, according to the
 terms of the deed, or after any interest on such principal money shall have
 been in arrear for six months, or after any omission to pay any premium
 on any insurance which by the terms of the deed ought to be paid by the
 person entitled to the property subject to the charge, have the following
 powers to the same extent (but no more) as if they had been in terms con-
 ferred by the person creating the charge, namely:—

1st.—A power to sell or concur with any other person in selling the
 whole or any part of the property by public auction or private contract
 subject to any reasonable conditions he may think fit to make, and to re-
 scind or vary contracts for sale, or buy in and re-sell the property, from
 time to time, in like manner :

2nd.—A power to appoint or obtain the appointment of a receiver of
 the rents and profits of the whole or any part of the property in manner
 hereinafter mentioned.

7. Receipts for purchase-money given by the person or persons
 exercising the power of sale hereby conferred, shall
 Receipts for purchase- money sufficient dis- charges. not be bound to see to the application of such pur-
 chase-money.

8. No such sale as last aforesaid shall be made until after six months'
 notice in writing given to the person or one of the
 persons entitled to the property subject to the
 charge, or affixed on some conspicuous part of such
 property ; but when a sale has been effected in pro-
 fessed exercise of the powers hereby conferred, the title of the purchaser
 shall not be liable to be impeached on the ground that no case had arisen to
 Notice to be given before sale ; but purchaser relieved from inquiry as to circumstances of sale.

authorize the exercise of such power, or that no such notice as aforesaid had been given; but any person damnified by any such unauthorized exercise of such power, shall have his remedy in damages against the person or persons selling.

9. The money arising by any sale effected as aforesaid shall be applied by the person receiving the same as follows:—first, in payment of all the expenses incident to the sale or incurred in any attempted sale; secondly, in discharge of all interest and costs then due in respect of the charge in consequence whereof the sale was made; and thirdly, in discharge of all the principal monies then due in respect of such charge; and the residue of such money shall be paid to the person entitled to the property subject to the charge, his executors, administrators or assigns, as the case may be.

10. The person exercising the power of sale hereby conferred shall have power by deed to convey or assign to and vest in the purchaser the property sold, for all the estate and interest therein which the person who created the charge had power to dispose of: Provided that nothing herein contained shall be construed to authorize the mortgagee of a term of years to sell and convey the fee simple of the property comprised therein in cases where the mortgagor could have disposed of such fee simple at the date of the mortgage.

11. At any time after the power of sale hereby conferred shall have become exercisable, the person entitled to exercise the same shall be entitled to demand and recover from the person entitled to the property subject to the charge, all the deeds and documents in his possession or power relating to the same property, or to the title thereto, which he would have been entitled to demand and recover if the same property had been conveyed, appointed or surrendered to and were then vested in him for all the estate and interest which the person creating the charge had power to dispose of; and where the legal estate shall be outstanding in a trustee, the person entitled to a charge created by a person equitably entitled, or any purchaser from such person, shall be entitled to call for a conveyance of the legal estate to the same extent as the person creating the charge could have called for such a conveyance if the charge had not been made.

12. Any person entitled to appoint or obtain the appointment of a receiver as aforesaid, may from time to time, if any person or persons has or have been named in the deed of charge for that purpose, appoint such person or any one of such persons to be receiver, or if no person be so named, then may, by writing delivered to the person or any one of the persons entitled to the property subject to the charge, or affixed on some conspicuous part of the property, require such last-mentioned person or persons to appoint a fit and proper person as receiver, and if no such appointment be made within ten days after such requisition, then may in writing appoint any person he may think fit. No person shall be ineligible for the office of receiver merely because he is an officer of the High Court.

13. Every receiver appointed as aforesaid shall be deemed to be the agent of the person entitled to the property subject to the charge, who shall be solely responsible for his acts or defaults, unless otherwise provided for in the charge.

14. Every receiver appointed as aforesaid shall have power to demand and recover and give effectual receipts for all the rents, issues and profits of the property of which he is appointed receiver, by suit, distress, or otherwise, in the name either of the person entitled to the property subject to the charge, or of the person entitled to the money secured by the charge, to the full extent of the estate or interest which the person who created the charge had power to dispose of.

15. Every receiver appointed as aforesaid may be removed by the like authority, or on the like requisition as before provided with respect to the original appointment of a receiver, and new receivers may be appointed from time to time.

16. Every receiver appointed as aforesaid may be entitled to retain out of any money received by him, in lieu of all costs, charges, and expenses whatsoever, such a commission, not exceeding five *per centum* on the gross amount of all money received, as shall be specified in his appointment, and if no amount shall be so specified, then five *per centum* on such gross amount.

17. Every receiver appointed as aforesaid shall, if so directed in writing by the person entitled to the money secured by the charge, insure and keep insured from loss or damage by fire, out of the money received by him, the whole or any part of the property included in the charge which is in its nature insurable.

18. Every receiver appointed as aforesaid shall pay and apply all the money received by him in the first place in discharge of Government revenue and of all taxes, rates and assessments whatsoever, and in payment of his commission as aforesaid, and of the premiums on the insurances, if any; and in the next place in payment of all the interest accruing due in respect of any principal money then charged on the property over which he is receiver or any part thereof: and, subject as aforesaid, shall pay all the residue of such money to the person for the time being entitled to the property subject to the charge, his executors, administrators or assigns.

19. The powers and provisions contained in Sections 6 to 18 of this Act, both inclusive, relate only to mortgages or charges made to secure money advanced or to be advanced by way of loan, or to secure an existing or future debt.

Leases.

20. Where any license to do any act which without such license would create a forfeiture, or give a right to re-enter under a condition or power reserved in any lease heretofore granted, or to be hereafter granted, shall, at any time after this Act comes into operation, be given to any lessee or his assigns, every such license shall, unless otherwise expressed, extend only to the permission actually given, or to any specific breach of any proviso or covenant made or to be made, or to the actual assignment, under-lease or other matter thereby specifically authorized to be done, but not so as to prevent any proceeding for any subsequent breach (unless otherwise specified

in such license) ; and all rights under covenants and powers of forfeiture and re-entry in the lease contained shall remain in full force, and shall be available as against any subsequent breach of covenant or condition, assignment under-lease, or other matter not specifically authorized or made dispunishable by such license, in the same manner as if no such license had been given ; and the condition or right of re-entry shall be and remain in all respects as if such license had not been given, except in respect of the particular matter authorized to be done.

21. Where in any lease heretofore granted or to be hereafter granted,

Restricted operation of partial licenses.

there is or shall be a power or condition of re-entry on assigning or under-letting, or doing any other specified act without license and a license at any time after the passing of this Act shall be given to one of several lessors or co-owners to assign or under-let his share or interest, or to do any other act prohibited to be done without license ; or shall be given to any lessee or owner, or any one of several lessees or owners, to assign or under-let part only of the property, or to do any other such act as aforesaid in respect of part only of such property, such license shall not operate to destroy or extinguish the right of re-entry in case of any breach of the covenant or condition by the co-lessee or co-lessees, or owner or owners, of the other shares or interests in the property, or by the lessee or owner of the rest of the property (as the case may be) over or in respect of such shares or interests or remaining property, but such right of re-entry shall remain in full force over or in respect of the shares or interests or property not the subject of such license.

22. Where the reversion upon a lease is severed, and the rent or

Apportionment of conditions of re-entry in certain cases.

other reservation is legally apportioned, the assignee of each part of the reversion shall, in respect of the apportioned rent or other reservation allotted or belonging to him, have and be entitled to the benefit of all conditions or powers of re-entry for non-payment of the original rent or other reservation, in like manner as if such conditions or powers had been reserved to him as incident to his part of the reversion in respect of the apportioned rent or other reservation allotted or belonging to him.

Rent-charges.

23. The release from a rent-charge of part of the immoveable property

Release of part of land charged, not to be an extinguishment.

charged therewith shall not extinguish the whole rent-charge, but shall operate only to bar the right to recover any part of the rent-charge out of the property released, without prejudice nevertheless to the rights of all persons interested in the property remaining unreleased, and not concurring in or confirming the release.

Powers.

24. A deed hereafter executed in the presence of and attested by two

Mode of execution of powers.

or more witnesses in the manner in which deeds are ordinarily executed and attested, shall, so far as respects the execution and attestation thereof, be a valid execution of a power of appointment by deed or by any instrument in writing not testamentary, notwithstanding it shall have been expressly required that a deed or instrument in writing made in exercise of such power should be executed or attested with some additional or other form of execution or attestation or solemnity : Provided always, that this provision shall

not operate to defeat any direction in the instrument creating the power, that the consent of any particular person shall be necessary to a valid execution, or that any act shall be performed in order to give validity to any appointment, having no relation to the mode of executing and attesting the instrument: and nothing herein contained shall prevent the donee of a power from executing it conformably to the power by writing or otherwise than by an instrument executed and attested as an ordinary deed, and to any such execution of a power this provision shall not extend.

25. Where by any will which shall come into operation after the passing of this Act, the testator shall have charged his im-

Legatee in trust may raise money by sale, notwithstanding want of express power in the will.

moveable property or any specific portion thereof with the payment of his debts, or with the payment of any legacy or other specific sum of money, and shall have bequeathed the property so charged to any trustee or trustees for the whole of his estate or interest therein, and shall not have made any express provision for the raising of such debt, legacy, or sum of money out of such property, it shall be lawful for the said legatee or legatees in trust, notwithstanding any trusts actually declared by the testator, to raise such debts, legacy, or money as aforesaid by sale and absolute disposition by public auction or private contract, of the said property or any part thereof, or by a mortgage of the same, or partly in one mode and partly in the other; and any deed or deeds of mortgage so executed may reserve such rate of interest and fix such period or periods of repayment as the person or persons executing the same shall think proper.

26. The powers conferred by the last preceding section shall extend

Powers given by last section extended to survivors, legatees, &c.

to all and every person or persons in whom the property bequeathed in trust shall for the time being be vested by survivorship, or under the laws relating to intestate or testamentary succession, or to any person or persons who may be appointed under any power in the will, or by the High Court, to succeed to the trusteeship vested in such legatee or legatees in trust as aforesaid.

27. If any testator who shall have created such a charge as is describ-

Executors to have power of raising money, &c., where there is no sufficient bequest.

ed in Section 25 of this Act, shall not have bequeathed the property charged as aforesaid in such terms as that his whole estate and interest therein shall become vested in any trustee or trustees, the executor or executors (if any) for the time being named in such will shall have the same or the like power of raising the said monies as is hereinbefore vested in the legatee or legatees in trust of the said property, and such powers shall from time to time devolve on and become vested in the person or persons (if any) in whom the executorship shall for the time being be vested.

28. Purchasers or mortgagors shall not be bound to enquire whether

Purchasers, &c., not bound to enquire as to powers.

the powers conferred by Sections 25, 26 and 27 of this Act, or any of them, shall have been duly and correctly exercised by the person or persons acting in virtue thereof.

Inheritance.

29. In cases of intestacies occurring before the first day of January

Descent how to be traced.

1866, where there shall be a total failure of heirs of the purchaser, or where any immoveable property shall be descendible as if an ancestor had been the purchaser thereof, and

there shall be a total failure of the heirs of such ancestor; then and in every such case the property shall descend, and the descent shall thenceforth be traced from the person last entitled to the property as if he had been the purchaser thereof. This section shall be read as part of Act No. XXX of 1839 (*for the amendment of the law of inheritance*).

NOTE.—Act XXX of 1839 has been repealed by Act VIII of 1868, except as to intestacies occurring before the 1st January 1866.

Assignment of Moveables and Terms for Years.

30. Any person shall have power to assign moveable property now by law assignable, terms for years of immoveable property, and estates by *elegit*, directly to himself and another person or other persons or corporation, by the like means as he might assign the same to another.

Assignment to self and others.

Purchasers.

31. The *bonâ fide* payment to and the receipt of any person to whom any purchase or mortgage money shall be payable upon any express or implied trust, shall effectually discharge the person paying the same from seeing to the application, or being answerable for the misapplication thereof.

Not to be bound to see to the application of purchase money, &c.

32—37. *Repealed by Act II of 1882.*

38. It shall be lawful for any executors to pay any debts or claims upon any evidence that they may think sufficient, and to accept any composition, or any security for any debts due to the deceased, and to allow any time for payment of any such debts as they shall think fit, and also to compromise, compound, or submit to arbitration all debts, accounts, claims and things whatsoever relating to the estate of the deceased, and for any of the purposes aforesaid to enter into, give, and execute such agreements, instruments of composition, releases, and other things as they shall think expedient, without being responsible for any loss to be occasioned thereby.

Executors may compound, &c.

39. *Repealed by Act VII of 1882.*

40. Where an executor or administrator liable as such to the rents, covenants, or agreements contained in any lease or agreement for a lease granted or assigned, whether before or after the passing of this Act, to the testator or intestate whose estate is being administered, shall have satisfied all such liabilities under the said lease, or agreement for a lease as may have accrued due and been claimed up to the time of the assignment hereinafter mentioned, and shall have set apart a sufficient fund to answer any future claim that may be made in respect of any fixed and ascertained sum covenanted or agreed by the lessee to be laid out on the property demised or agreed to be demised, although the period for laying out the same may not have arrived, and shall have assigned the lease or agreement for a lease to a purchaser thereof, he shall be at liberty to distribute the residuary estate of the deceased to and amongst the parties entitled thereto, respectively, without appropriating any part, or any further part (as the case may be) of the estate of the deceased to meet any future liability under the said lease or agreement for a lease. The executor or administrator so distributing the residuary estate shall not, after having assigned the said lease or agreement for a lease, and having, where necessary, set apart such sufficient fund as aforesaid, be personally liable in respect of any subsequent claim under the

As to liability of executor or administrator in respect of rents, covenants, or agreements.

said lease or agreement for a lease. Nothing herein contained shall prejudice the right of the lessor or those claiming under him to follow the assets of the deceased into the hands of the person or persons to or amongst whom the said assets may have been distributed.

41. In like manner, where an executor or administrator liable as such

As to liability of executor, &c., in respect of rents, &c., in conveyance on rent charge.

to the rent, covenants, or agreements contained in any conveyance on chief rent or rent-charge (whether any such rent be by limitation of use, grant, or reservation), or agreement for such conveyance, granted or assigned to or made and entered into with the testator or intestate whose estate is being administered, shall have satisfied all such liabilities under the said conveyance or agreement for a conveyance, as may have accrued due and been claimed up to the time of the conveyance hereinafter mentioned, and shall have set apart a sufficient fund to answer any future claim that may be made in respect of any fixed and ascertained sum covenanted or agreed by the grantee to be laid out on the property conveyed, or agreed to be conveyed, although the period for laying out the same may not have arrived, and shall have conveyed such property, or assigned the said agreement for such conveyance as aforesaid, to a purchaser thereof, he shall be at liberty to distribute the residuary estate of the deceased to and amongst the parties entitled thereto, respectively, without appropriating any part or any further part (as the case may be) of such estate to meet any future liability under the said conveyance, or agreement for a conveyance. The executor or administrator so distributing the residuary estate shall not after having made or executed such conveyance or assignment, and having, where necessary, set apart such sufficient fund as aforesaid, be personally liable in respect of any subsequent claim under the said conveyance, or agreement for a conveyance. Nothing herein contained shall prejudice the right of the grantor, or those claiming under him, to follow the assets of the deceased into the hands of the person or persons to or among whom the said assets may have been distributed.

42. Where an executor or administrator shall have given such or the

As to distribution of the assets of testator or intestate after notice given by executor, and administrator.

like notices as in the opinion of the Court in which such executor or administrator is sought to be charged would have been given by the High Court in an administration suit, for creditors and others to send in to the executor or administrator their claims against the estate of the testator or intestate, such executor or administrator shall, at the expiration of the time named in the said notices, or the last of the said notices, for sending in such claims, be at liberty to distribute the assets of the testator or intestate, or any part thereof, amongst the parties entitled thereto, having regard to the claims of which such executor or administrator has then notice, and shall not be liable for the assets or any thereof so distributed to any person of whose claim such executor or administrator shall not have had notice at the time of distribution of the said assets or a part thereof, as the case may be. Nothing in the present Act contained shall prejudice the right of any creditor or claimant to follow the assets or any part thereof into the hands of the person or persons who may have received the same respectively.

43. Any executor or administrator shall be at liberty, without the

Executor, &c., may apply by petition to Judge of High Court for opinion, advice, &c., in management, &c., of trust property.

institution of a suit, to apply by petition to any Judge of the High Court for the opinion, advice or direction of such Judge on any question respecting the administration of the assets of any testator or intestate. Such application shall be served upon, or

the hearing thereof shall be attended by, all persons interested in such application, or such of them as the said Judge shall think expedient. The executor or administrator acting upon the opinion, advice or direction given by the said Judge shall be deemed, so far as regards his own responsibility, to have discharged his duty as such executor or administrator in the subject-matter of the said application; Provided nevertheless, that this Act shall not extend to indemnify any executor, or administrator, in respect of any act done in accordance with such opinion, advice or direction as aforesaid, if such executor or administrator shall have been guilty of any fraud or wilful concealment or misrepresentation in obtaining such opinion, advice or direction: and the costs of such application as aforesaid shall be in the discretion of the Judge to whom the said application shall be made.

NOTE.—As amended by Act II of 1882.

General Provisions.

44. For the purposes of this Act, a person shall be deemed to be Tenants for life, &c., may execute powers, notwithstanding incumbrances. entitled to the possession or to the receipt of the rents and income of immoveable or moveable property, although his estate may be charged or incumbered, either by himself or by any former owner, or otherwise howsoever to any extent; but the estates or interests of the parties entitled to any such charge or incumbrance shall not be affected by the acts of the person entitled to the possession or to the receipt of the rents and income as aforesaid, unless they shall concur therein.

45. The provisions contained in this Act shall, except as hereinbefore otherwise provided, extend only to persons entitled Operation of Act. or acting under a deed, will, codicil or other instrument executed after this Act comes into operation, or under a will or codicil confirmed or revived by a codicil executed after that date, and only to property in British India and to cases to which English law is applicable.

46. This Act may be called “The Trustees and Short title. Mortgagees’ Powers Act, 1866.”

47. *Repealed by Act XVI of 1874.*

NOTE.—This Act is declared to be in force throughout the whole of British India, except the Scheduled Districts, by Act XV of 1874. It has also been declared to be in force in certain of the Scheduled Districts of the Punjab, but not in Lahul (*vide* Notes (a) and (b) to Act XIV of 1874).

ACT No. III of 1867.

(Passed on the 25th January 1867).

An Act to provide for the punishment of public gambling and the keeping of common gaming-houses in the North-Western Provinces of the Presidency of Fort William, and in the Punjab, Oudh, the Central Provinces and British Burmah.

Whereas it is expedient to make provision for the punishment of public gambling and the keeping of common gaming-houses in the territories respectively subject to the Govern-
Preamble.

ments of the Lieutenant-Governor of the North-Western Provinces of the Presidency of Fort William, of the Lieutenant-Governor of the Punjab, and to the Administrations of the Chief Commissioner of Oudh, of the Chief Commissioner of the Central Provinces, and of the Chief Commissioner of British Burmah ; It is hereby enacted as follows:—

Interpretation clause.

1. In this Act—

“ Lieutenant-Governor.”

“ Lieutenant-Governor” means the Lieutenant-Governor of the said North-Western Provinces or the Punjab, as the case may be:

“ Chief Commissioner” means the Chief Commissioner of Oudh, the Central Provinces, or British Burmah, as the case may be :

“ Common gaming-house” means any house, walled enclosure, room or place in which cards, dice, tables or other instruments of gaming are kept or used for the profit or gain of the person owning, occupying, using or keeping such house, enclosure, room or place, whether by way of charge for the use of the instruments of gaming, or of the house, enclosure, room or place, or otherwise howsoever:

Number.

Words in the singular include the plural and *vice versa*, and

Gender.

Words denoting the masculine gender include females.

2. Sections 13, 17 and 18 of this Act shall extend to the whole of the said territories ; and it shall be competent to the Lieutenant-Governor or the Chief Commissioner, as the case may be, whenever he may think fit, to extend, by a notification to be published in three successive numbers of the official Gazette all or any of the remaining sections of this Act to any city, town, suburb, railway station-house and place being not more than three miles distant from any part of such station-house within the territories subject to his government or administration, and in such notification to define, for the purposes of this Act, the limits of such city, town, suburb, or station-house, and from time to time to alter the limits so defined. From the date of any such extension, so much of any rule having the force of law which shall be in operation in the territories to which such extension shall have been made, as shall be inconsistent with or repugnant to any section so extended, shall cease to have effect in such territories.

NOTES.—(a.) “ Applications are often made to the Government to extend the Gambling Act (III of 1867) to towns and villages at which there is no resident Magistrate.

“ His Honor the Lieutenant-Governor is aware of the evil caused by gambling as it exists in many parts of the Punjab, and that it directly leads to crime ; but it is necessary for the Government to determine whether a given remedy is not worse than the disease, and the Gambling Act places so much power in the hands of a not highly paid Police, that the Lieutenant-Governor will not sanction its extension in any town where there is no Magistrate to watch its working and guard against its abuse.”—(Punjab Government Circular No. 59—2,701, dated 8th August 1872, to all Commissioners and Superintendents in the Punjab).

(b.) A list of the towns and places to which the provisions of this Act have been extended, is printed at the end of the Act.

3. Whoever, being the owner or occupier, or having the use, of any house, walled enclosure, room or place, situate within the limits to which this Act applies, opens, keeps or uses the same as a common gaming-house ; and whoever, being the owner or occupier of any such house, walled enclosure,

Penalty for owning or keeping, or having charge of a gaming-house.

room or place as aforesaid, knowingly or wilfully permits the same to be opened, occupied, used or kept by any other person as a common gaming-house; and whoever has the care or management of, or in any manner assists in conducting, the business of any house, walled enclosure, room or place as aforesaid, opened, occupied, used or kept for the purpose aforesaid; and whoever advances or furnishes money for the purpose of gaming with persons frequenting such house, walled enclosure, room or place, shall be liable to a fine not exceeding two hundred rupees, or to imprisonment of either description, as defined in the Indian Penal Code, for any term not exceeding three months.

4. Whoever is found in any such house, walled enclosure, room or place, playing or gaming with cards, dice, counters, money or other instruments of gaming, or is found there present for the purpose of gaming, whether playing for any money, wager, stake or otherwise, shall be liable to a fine not exceeding one hundred rupees or to imprisonment of either description as defined in the Indian Penal Code for any term not exceeding one month; and any person found in any common gaming-house during any gaming or playing therein shall be presumed, until the contrary be proved, to have been there for the purpose of gaming.

5. If the Magistrate of a district or other officer invested with the full powers of a Magistrate, or the District Superintendent of Police, upon credible information, and after such enquiry as he may think necessary, has reason to believe that any house, walled enclosure, room or place, is used as a common gaming-house, he may either himself enter, or by his warrant authorize any officer of police, not below such rank as the Lieutenant-Governor or Chief Commissioner shall appoint in this behalf, to enter, with such assistance as may be found necessary, by night or by day, and by force if necessary, any such house, walled enclosure, room or place, and may either himself take into custody, or authorize such officer to take into custody, all persons whom he or such officer finds therein whether or not then actually gaming; and may seize or authorize such officer to seize all instruments of gaming, and all monies and securities for money, and articles of value, reasonably suspected to have been used or intended to be used for the purpose of gaming, which are found therein; and may search or authorize such officer to search all parts of the house, walled enclosure, room or place, which he or such officer shall have so entered, when he or such officer has reason to believe that any instruments of gaming are concealed therein, and also the persons of those whom he or such officer so takes into custody; and may seize or authorize such officer to seize and take possession of all instruments of gaming found upon such search.

NOTE.—Under the provisions of this section the Lieutenant-Governor has declared that in all towns where there is a Deputy Inspector of Police, no officer below the rank of Deputy Inspector, and in towns where there is no Deputy Inspector or Police officer of higher rank, no officer below the rank of Sergeant, shall execute warrants issued under this section.—(Notification No. 295, dated 27th February 1867—*Punjab Gazette* of 28th idem, page 161).

6. When any cards, dice, gaming-tables, cloths, boards or other instruments of gaming are found in any house, walled enclosure, room or place, entered or searched under the provisions of the last preceding section, or about the person of any of those who are found therein, it shall be evidence, until the contrary is made to appear, that such house, walled enclosure, room or place, is used as a common gaming-house.

gaming-house, and that the persons found therein were there present for the purpose of gaming, although no play was actually seen by the Magistrate or police officer, or any of his assistants.

7. If any person found in any common gaming-house entered by any Magistrate or officer of police under the provisions of this Act, upon being arrested by any such officer or upon being brought before any Magistrate, on being required by such officer or Magistrate to give his name and address, shall refuse or neglect to give the same, or shall give any false name or address, he may upon conviction before the same or any other Magistrate be adjudged to pay any penalty not exceeding five hundred rupees, together with such costs as to such Magistrate shall appear reasonable, and on the non-payment of such penalty and costs, or in the first instance, if to such Magistrate it shall seem fit, may be imprisoned for any period not exceeding one month.

8. On conviction of any person for keeping or using any such common gaming-house, or being present therein for the purpose of gaming, the convicting Magistrate may order all the instruments of gaming found therein to be destroyed, and may also order all or any of the securities for money and other articles seized, not being instruments of gaming, to be sold and converted into money, and the proceeds thereof with all monies seized therein to be forfeited; or, in his discretion, may order any part thereof to be returned to the persons appearing to have been severally thereunto entitled.

9. It shall not be necessary, in order to convict any person of keeping a common gaming-house, or of being concerned in the management of any common gaming-house, to prove that any person found playing at any game was playing for any money, wager, or stake.

10. It shall be lawful for the Magistrate before whom any persons shall be brought, who have been found in any house, walled enclosure, room or place entered under the provisions of this Act, to require any such persons to be examined on oath or solemn affirmation, and give evidence touching any unlawful gaming in such house, walled enclosure, room or place, or touching any act done for the purpose of preventing, obstructing or delaying the entry into such house, walled enclosure, room or place or any part thereof, of any Magistrate or officer authorized as aforesaid. No person so required to be examined as a witness shall be excused from being so examined when brought before such Magistrate as aforesaid, or from being so examined at any subsequent time by or before the same or any other Magistrate, or by or before any Court on any proceeding or trial in any ways relating to such unlawful gaming or any such acts as aforesaid, or from answering any question put to him touching the matters aforesaid, on the ground that his evidence will tend to criminate himself. Any such person so required to be examined as a witness, who refuses to make oath or take affirmation accordingly or to answer any such question as aforesaid, shall be subject to be dealt with in all respects as any person committing the offence described in Section 178 or Section 179 (as the case may be) of the Indian Penal Code.

11. Any person who shall have been concerned in gaming contrary to this Act, and who shall be examined as a witness before a Magistrate on the trial of any person for

Witnesses indemnified.

breach of any of the provisions of this Act relating to gaming, and who, upon such examination, shall in the opinion of the Magistrate make true and faithful discovery, to the best of his knowledge, of all things as to which he shall be so examined, shall thereupon receive from the said Magistrate a certificate in writing to that effect, and shall be freed from all prosecutions under this Act for anything done before that time in respect of such gaming.

12. Nothing in the foregoing provisions of this Act contained, shall
Act not to apply to certain games. be held to apply to any game of mere skill wherever played.

13. A police officer may apprehend without warrant any person found
Gaming and setting birds and animals to fight in public streets. playing for money or other valuable thing with cards, dice, counters or other instruments of gaming, used in playing any game not being a game of mere skill in any public street, place, or thoroughfare situated within the limits aforesaid, or any person setting any birds or animals to fight in any public street place or thoroughfare situated within the limits aforesaid, or any person there present aiding and abetting such public fighting of birds and animals. Such person when apprehended shall be brought without delay before a Magistrate, and shall be liable to a fine not exceeding fifty rupees, or to imprisonment, either simple or rigorous, for any term not exceeding one calendar month; and such police officer may seize
Destruction of instruments of gaming found in public streets. all instruments of gaming found in such public place or on the person of those whom he shall so arrest, and the Magistrate may on conviction of the offender order such instruments to be forthwith destroyed.

14. Offences punishable under this Act shall be triable by any Magistrate having jurisdiction in the place where the
Offences by whom triable. offence is committed. But such Magistrate shall be restrained within the limits of his jurisdiction under the Code of Criminal Procedure, as to the amount of fine or imprisonment he may inflict.

15. Whoever, having been convicted of an offence punishable under
Penalty for subsequent offence. Section 3 or Section 4 of this Act, shall again be guilty of any offence punishable under either of such sections, shall be subject for every such subsequent offence to double the amount of punishment to which he would have been liable for the first commission of an offence of the same description; Provided that he shall not be liable in any case to a fine exceeding six hundred rupees, or to imprisonment for a term exceeding one year.

16. The Magistrate trying the case may direct any portion of any fine
Portion of fine may be paid to informer. which shall be levied under Sections 3 and 4 of this Act, or any part of the monies or proceeds of articles seized and ordered to be forfeited under this Act, to be paid to an informer.

17. All fines imposed under this Act may be recovered in the manner
Recovery and application of fines. prescribed by Section 307 of the Code of Criminal Procedure, and such fines shall (subject to the provisions contained in the last preceding section) be applied as the Lieutenant-Governor or Chief Commissioner, as the case may be, shall from time to time direct.

18. *Repealed by Act XVI of 1874.*

NOTE.—See Act XXI of 1857, ante, p. 34.

LIST OF TOWNS IN THE PUNJAB TO WHICH THE WHOLE OF THE PROVISIONS OF ACT III OF 1867 HAVE BEEN EXTENDED.

Under the provisions of Section 2 of Act III of 1867 (An Act to provide for the punishment of public gambling and the keeping of common gaming-houses in the North-Western Provinces of the Presidency of Fort William, and in the Punjab, Oudh, the Central Provinces and British Burma) and in supersession of Notifications Nos. 4, 101 and 187, dated 2nd January, 7th February, and 2nd March 1885, the Hon'ble the Lieutenant-Governor is pleased to extend the whole of the provisions of the said Act to the under mentioned towns in the Punjab:—

Division.	District.	Towns.	Division.	District.	Towns.
DELHI.	Delhi ...	{ Delhi. Sonapat. Faridabad. Ballabgarh.	JULLUNDUR	Ludhiana ...	{ Ludhiana. Jagraon. Khanna. Machiwara. Baskot.
	Karnal ...	{ Karnal. Panipat. Kaithal.		Ferozepore ...	{ Ferozepore. Dharmkote. Zira. Moga. Mudki. Fazilka. Muktsar.
	Gurgaon ...	{ Rewari. Farnkh Nagar. Sohna. Palwal. Firozpur. Hodal.		Jullundur ...	{ Jullundur. Kartarpur. Bahon. Phillour. Nurmahal. Nakodar. Alawalpur. Bunga. Nawashahr.
	Hissar ...	{ Hissar. Hansi. Bhiwani. Sirsa. Fatehabad.*		Hoshiarpur ...	{ Hoshiarpur. Anandpur. Urmar Tanda. Miani. Hariana. Garhashanker. Garhdiwale. Dasuya. Mukerian. Una.
	Rohtak ...	{ Rohtak. Beri. Bahadurgarh. Jhajjer. Gohana.		Kangra ...	{ Kangra. Bhawan. Jowalamukhi. Nurpur. Dharmasala. Sujanpur.
	Umballa ...	{ Umballa. Jagadhri. Thanesar. Shahabad. Rupar. Sadhaura. Manimajra. Narsingarh. Buriya.			
	Simla ...	Simla.†			

* See No. 976, dated 5th October 1887, Punjab Gazette of 6th idem, Part I, page 548. (The limits to be the Municipal limits as described in Punjab Government Notification No. 365, dated 25th May 1885).

† See No. 1205, dated 30th November 1887, Punjab Gazette of 1st December 1887, Part I, page 624.

Division.	District.	Towns.	Division.	District.	Towns.
LAHORE.	Amritsar ...	Amritsar. Jandiala. Majitha. Tarn Taran. Vairawal.	RAWALPINDI—continued.	Gujranwala ...	Gujranwala. Wazirabad. Ramnagar. Eminabad. Akalgarh. Pindi Bhatian. Kila Didar Singh.
	Gurdaspur ...	Gurdaspur. Batala. Dinanagar. Kalanaur. Srigovindpur. Dera Nanak. Sujanpur. Pathankot. Dalhousie.		Sialkot ...	Sialkot. Pasrur. Kila Sobha Singh. Zafarwal. Jamki. Daska. Narowal.
	Lahore ...	Lahore. Kasur. Chunian.		Dera Ismail Khan ...	Dera Ismail Khan. Kulachi. Loiah. Karor. Bhakkar.
	Mooltan ...	Mooltan. Shujabad.		Dera Ghazi Khan ...	Dera Ghazi Khan. Dajal. Jampur. Rajanpur. Mithankot.
	Jhang ...	Jhang-cum-Maghiana Chiniot.		Bannu ...	Edwardes-abad. Kalabagh. Isa khel. Mianwali. Laki.
	Montgomery ...	Montgomery. Pakpattan. Kamalia. Dipalpur.†		Muzaffargarh ...	Muzaffargarh. Alipur.
RAWALPINDI.	Rawalpindi ...	Rawalpindi. Pindigheb. Attock. Hazro.	DERAJAT.	Peshawar ...	Peshawar.
	Jhelum ...	Jhelum. Pind Dadan Khan. Bhown.*		Hazara ...	Haripur. Abbott-abad.
	Gujrat ...	Gujrat. Jalalpur. Kunjab.		Kohat ...	Kohat.
	Shahpur ...	Shahpur. Bhera. Miani. Khushab. Sahiwal.			

* See also Notification No. 171, dated 19th February 1887, *Punjab Gazette of 24th idem, Part I, page 71*, which further specifies the limits of the town of Bhown for the purposes of the Act.

† See Notification No. 262, dated 14th March 1887 (*Punjab Gazette of 17th idem, Part I, page 124*) where the limits of the town of Dipalpur are defined.

For the purposes of Act III of 1867, the limits of the above cities or towns are defined to be the Municipal areas of the same name.

(Notification No. 1290, dated 24th December 1886, *Punjab Gazette of 30th idem, Part I, p. 105*).

See also Police Memo. No. 114 of 1887.

ACT No. VII of 1867.

(*Passed on the 1st February 1867.*)

An Act to reduce the pecuniary penalty for purchasing from Soldiers arms, ammunition, clothes, and other articles.

WHEREAS by the Act for punishing mutiny and desertion, and for the better payment of the army and their quarters, it is enacted as follows:

Preamble.

“Any person who shall knowingly detain, buy, exchange, or receive from any soldier or deserter, or any other person acting for or on his behalf, on any pretence whatsoever, or who shall solicit or entice any soldier, or shall be employed by any soldier, knowing him to be such, to sell any arms, ammunition, medals for good conduct or for distinguishment or other service, clothes, or military furniture, or any provisions, or any sheets or other articles used in barracks, provided under barrack regulations, or regimental necessities, or any article of forage provided for any horses belonging to Her Majesty's service, or who shall have in his or her possession or keeping any such arms, ammunition, medals, clothes, furniture, provisions, spirits, articles, necessities, or forage, and shall not give a satisfactory account how he or she came by the same, or shall change the colour of any clothes as aforesaid, shall forfeit for every such offence any sum not exceeding twenty pounds, together with treble the value of all or any of the several articles of which such offender shall so become or be possessed: and if any person having been so convicted shall afterwards be guilty of any such offence, he shall for every such offence forfeit any sum not exceeding twenty pounds, but not less than five pounds, and the treble value of all or any of the several articles of which such offender shall have so become possessed, and shall in addition to such forfeiture be committed to the common gaol or house of correction, there to be imprisoned, with or without hard labor, for such term, not exceeding six calendar months, as the convicting Justice or Justices shall think fit; and upon any information against any person for a second or any subsequent offence, a copy of the former conviction, certified by the proper officer having the care or custody of such conviction or any copy of the same proved to be a true copy, shall be sufficient evidence to prove such former conviction; and if any credible person shall prove on oath before a Justice of the Peace, or person exercising like authority according to the laws of the part of Her Majesty's dominions in which the offence shall be committed, a reasonable cause to suspect that any person has in his or her possession, or on his or her premises, any property of the description hereinbefore described, on or with respect to which any such offence shall have been committed, such Justice may grant a warrant to search for such property as in the case of stolen goods; and if upon such search any such property shall be found, the same shall and may be seized by the officers charged with the execution of such warrant, who shall bring the offender in whose possession the same shall be found before the same or any other Justice of the Peace, to be dealt with according to law: Provided always, that it shall be lawful for the legislature of any of Her Majesty's foreign dominions, on the recommendation of the officer or officers for the time being administering the Government thereof, but not otherwise, to make provision by law for reducing such pecuniary penalty if not exceeding twenty pounds, to such amount as may to such legislature appear to be better adapted to the

ability and pecuniary means of Her Majesty's subjects and others inhabiting the same, which reduced penalty shall be sued for and recovered in such and the same manner as the full penalty hereby imposed ; Provided also, that it shall be competent to Her Majesty, or to the person or persons administering the government of any such foreign dominions as aforesaid, to exercise, in respect of the laws so to be passed as aforesaid, all such powers and authorities as are by law vested in Her Majesty or in any such officer or officers as aforesaid in respect of any other law made or enacted by any such legislature."

And whereas the officers now administering the Government of British India have recommended that the pecuniary penalty aforesaid, if not exceeding twenty pounds, shall be reduced to the amount hereinafter mentioned as being better adapted to the ability and pecuniary means of Her Majesty's subjects and others inhabiting British India ; and whereas it is expedient to give effect to such recommendation ;—In exercise of the said power for this purpose contained in the said Act and of every other power enabling the Governor-General of India in Council in this behalf, and on the recommendation aforesaid ; It is hereby enacted as follows :—

1. Wherever the pecuniary penalty which might have been imposed under the said recited section, if this Act had not been passed, shall not exceed twenty pounds or two hundred rupees, the first part of the said section shall be read as if for the words "twenty pounds," wherever they occur, the words "fifty rupees" were substituted, and as if for the words "five pounds," the words "five rupees" were substituted.

Reduction of pecuniary penalties provided by Mutiny Act.

ACT No. IX of 1867.

(Passed on the 8th February 1867).

An Act to make further provision for suits by and against the Comptoir D'Escompte of Paris.

Whereas it is expedient to make further provision for suits and other proceedings by or on behalf of or against the Comptoir D'Escompte of Paris : It is hereby enacted as follows :

Preamble.

1. In Act No. VIII of 1864 (to enable the "Comptoir D'Escompte of Paris" to sue and be sued in the name of the Chief Manager of the Indian Agencies of the said Company) Sections 2, 3, 4, 5, 12 and 13, the expressions "Chief Manager of the agencies in British India of the said Comptoir D'Escompte," and "Chief Manager" shall be taken to include any person for the time being acting as Chief Manager of the said agencies, or being or acting as Manager of such one of the same agencies as may be situate within the jurisdiction of the Court in which the suit or proceeding mentioned in any of the said sections may be instituted or carried on.

Construction of certain sections of Act No. VIII of 1864.

Act to be read with Act VIII of 1864.

2. This Act shall be read with, and taken as part of the said Act No. VIII of 1864.

ACT No. XVI of 1867.*(Passed on the 1st March 1867).*

An Act to authorize the making of acting appointments to certain judicial offices.

Whereas the Governor-General of India in Council or the Local Government, as the case may be, is empowered by divers enactments to appoint the Judges of certain Courts in British India : and whereas it has been doubted whether he or it is empowered to appoint persons to act temporarily as such Judges, and it is expedient to remove such doubts ; It is hereby enacted as follows :—

1. In every case in which the Governor-General of India in Council, or the Local Government, as the case may be, has power under any Act or Regulation to appoint a Judge of any Court in British India, such power shall be taken to include the power to appoint any person capable of being appointed a permanent Judge of such Court, to act as Judge of the same Court for such time as the Governor-General of India in Council or the Local Government, as the case may be, shall direct. Every person so appointed to act temporarily as a Judge of any such Court shall have the powers and perform the duties which he would have had and been liable to perform in case he had been duly appointed a permanent Judge of the same Court.

Power to appoint acting Judges.
Construction of enactments referred to.

2. Every such Act and Regulation shall be construed as if it contained a special clause to the purport or effect of the first section of this Act.

ACT No. XXII of 1867.*(Passed on the 15th March 1867).*

An Act for the Regulation of public Sarais and Puraos.

Whereas it is expedient to provide for the regulation of public Sarais and Puraos ; It is hereby enacted as follows :—

Preamble.

1. Regulation XIV. of 1807 of the Government of the Presidency of Fort William in Bengal, Section 11, Clause 5, is hereby repealed so far as it applies to public sarais in the territories to which this Act may from time to time apply.

Repeal of Bengal Regulation XIV. of 1807, Section 11, Clause 5.

Interpretation clause.

2. In this Act—unless there be something repugnant in the subject or context—

“Sarai” means any building used for the shelter and accommodation of travellers, and includes, in any case in which only part of a building is used as a sarai, the part so used of such building. It also includes a purao so far as the provisions of this Act are applicable thereto.

"Keeper of a sarai."

"Keeper of a sarai" includes the owner and any person having or acting in the care or management thereof.

"Magistrate of the District."

"Magistrate of the District" means the chief officer charged with the executive administration of a district in criminal matters, whatever may be his designation.

Words in the singular include the plural and *vice versa*. And in any place in which this Act shall operate, "Local Government" shall mean the person administering executive government in such place, and shall include a Chief Commissioner and the Commissioner in Sindh.

Number.

"Local Government."

3. Within six months after this Act shall come into operation, the Magistrate of the District in which any sarai to which this Act shall apply may be situate shall, and from time to time thereafter such Magistrate may, give to the keeper of every such sarai notice in writing of this Act, by leaving such notice for the keeper at the sarai; and shall by such notice require the keeper to register the sarai as by this Act provided. Such notice may be in the form in the schedule to this Act annexed or to the like effect.

Notice of this Act to be given to keepers of sarais.

4. The Magistrate of the District shall keep a register in which shall be entered by such Magistrate, or such other person as he shall appoint in this behalf, the names and residences of the keepers of all sarais within his jurisdiction, and the situation of every such sarai. No charge shall be made for making any such entry.

Register of sarais to be kept.

5. After one month after the giving of such notice to register as by this Act provided, the keeper of any sarai or any other person shall not receive any lodger or allow any person, cattle, sheep, elephant, camel, or other animal, or any vehicle to halt or be placed in such sarai until the same and the name and residence of the keeper thereof shall have been registered as by this Act provided.

Lodgers, &c., not to be received in sarais until registered.

6. The Magistrate of the District may, if he shall think fit, refuse to register as the keeper of a sarai a person who does not produce a certificate of character in such form and signed by such persons as the Local Government shall from time to time direct.

Magistrate may refuse to register keeper not producing certificate of character.

Duties of keepers of sarais.

7. The keeper of a sarai shall be bound—

(1). When any person in such sarai is ill of any infectious or contagious disease, or dies of such disease, to give immediate notice thereof to the nearest police station.

(2). At all times when required by any Magistrate or any other person duly authorized by the Magistrate of the District in this behalf, to give him free access to the sarai and allow him to inspect the same or any part thereof.

(3). To thoroughly cleanse the rooms and verandahs and drains of the sarai, and the wells, tanks, or other sources from which water is obtained for the persons or animals using it, to the satisfaction of and so often as shall be required by the Magistrate of the District, or such person as he shall appoint in this behalf.

(4). To remove all noxious vegetation on or near the sarai, and all trees and branches of trees capable of affording to thieves means of entering or leaving the sarai.

(5). To keep the gates, walls, fences, roofs, and drains of the sarai in repair.

(6). To provide such number of watchmen as may, in the opinion of the Magistrate of the District, subject to such rules as the Local Government may prescribe in this behalf, be necessary for the safety and protection of persons and animals or vehicles lodging in, halting at, or placed in the sarai; and

(7). To exhibit a list of charges for the use of the sarai at such place and in such form and languages as the Magistrate of the District shall from time to time direct.

8. The keeper of a sarai shall from time to time, if required so to do by an order of the Magistrate of the District served upon him, report, either orally or in writing as may be directed by the Magistrate, to such Magistrate or to such person as the Magistrate shall appoint, every person who resorted to such sarai during the preceding day or night. If written reports are required for any space of time exceeding a single day or night, schedules shall be furnished by the Magistrate of the District to the keeper. The keeper shall from time to time fill up the said schedules with the information so required, and transmit them to the said Magistrate, in such manner and at such intervals as may from time to time be ordered by him.

9. If any sarai by reason of abandonment or of disputed ownership shall remain untenanted, and thereby become a resort of idle and disorderly persons, or become in a filthy or unwholesome state, or be complained of by any two or more of the neighbours as a nuisance, the Magistrate of the District, after due enquiry, may cause notice in writing to be given to the owner, or to the person claiming to be the owner, if he be known and resident within the district, and may also cause such notice to be put on some conspicuous part of the sarai, requiring the persons concerned therein, whoever they may be, to secure, enclose, clean or clear the same; and if such requisition shall not be complied with within eight days, the Magistrate of the District may cause the necessary work to be executed, and all expenses thereby incurred shall be paid by the owner of the sarai, and shall be recoverable like penalties under this Act, or, in case of abandonment or disputed ownership of the sarai, by the sale of any material found therein.

10. If a sarai or any part thereof be deemed by the Magistrate of the District to be in a ruinous state, or likely to fall, or in any way dangerous to the persons or animals lodging in or halting at the sarai, he shall give notice in writing to the keeper of the sarai, requiring him forthwith to take down, repair, or secure (as the case may be) the sarai or such part thereof as the case may require. If the keeper do not begin to take down, repair or secure the sarai, or such part as aforesaid within three days after such notice, and complete such work with due diligence, the Magistrate shall cause all or so much of the sarai as he shall think necessary to be taken down, repaired, or otherwise secured. All the expenses so incurred by the Magistrate shall be paid by the keeper of the sarai, and shall be recoverable from him as hereinafter mentioned.

11. If any such sarai or any part thereof be taken down by virtue of the powers aforesaid, the Magistrate of the District may sell the materials thereof, or so much of the same as shall be taken down under the provisions of the last preceding section, and apply the proceeds of such sale in payment of the expenses incurred, and shall restore the overplus (if any) arising from such sale to the owner of such sarai on demand, and may recover the deficiency (if any) as if the amount thereof were a penalty under this Act.

12. Whoever, being the keeper of any sarai, suffers the same to be in a filthy and unwholesome state, or overgrown with vegetation, or after the expiration of two days from the time of his receiving notice in writing from the Magistrate of the District to cleanse or clear the same, or after he shall have been convicted of suffering the same to be in such state or so overgrown as aforesaid, shall allow the same to continue in such state, or so overgrown, shall be liable to the penalties provided in Section 14 of this Act. Provided, that the Magistrate of the District may, in lieu of enforcing such daily penalty, enter on and cleanse or clear the said sarai, and the expense incurred by the Magistrate in respect thereof shall be paid to him by the keeper, and shall be recoverable as by this Act provided in the case of penalties.

13. The Local Government may from time to time make regulations for the better attainment of the objects of this Act, provided that such rules be not inconsistent with this Act or with any other law for the time being in force, and may from time to time repeal, alter and add to the same. All regulations made under this Act, and all repeals thereof and alterations and additions thereto, shall be published in the local official Gazette.

14. If the keeper of a sarai offend against any of the provisions of this Act or any of the regulations made in pursuance of this Act, he shall for every such offence be liable, on conviction before any Magistrate, to a penalty not exceeding twenty rupees, and to a further penalty not exceeding one rupee a day for every day during which the offence continues. Provided always, that this Act shall not exempt any person from any penalty or other liability to which he may be subject irrespective of this Act. All penalties imposed under this Act may be recovered in the same manner as fines may be recovered under Section 307 of the Code of Criminal Procedure.

NOTE.—S. 386 of Act X of 1882 is the corresponding section of the present Code.

15. Where a keeper of a sarai is convicted of a third offence under this Act, he shall not afterwards act as keeper of a sarai without the license in writing of the Magistrate of the District, who may either withhold such license or grant the same on such terms and conditions as he may think fit.

16. No part of this Act, except Section 8, shall apply to any sarai which may be under the direct management of the Local Government, or of any Municipal Committee.

17. This Act shall in the first instance extend only to the territories under the government of the Lieutenant-Governor of the North-West Provinces of the presidency of Fort William in Bengal. But it shall be lawful for the Local Government,

by notification in the local Gazette, to extend this Act, *mutatis mutandis*, to

Power to Governor any other part of the territories which are or may
General in Council to be vested in Her Majesty or Her Successors by the
extend this Act. Statute 21 and 22 Vic., cap. 196 (*An Act for the better*

government of India), except the towns of Calcutta, Madras and Bombay,
and the Settlement of Prince of Wales' Island, Singapore, and Malacca.

NOTE.—This Act was extended to the Punjab, with effect from the 1st January 1880, by
Notification No. 4499, dated 13th December 1879 (*Punjab Gazette of 18th idem*).

Short title.

18. This Act may be called "The Sarais-
Act, 1867."

SCHEDULE.

FORM OF NOTICE.

Take notice that on the day of 1867, an Act called "The Sarais' Act, 1867,"
was passed and that before the day of 18 you, being the keeper of a Sarai
[or Purao] within [here state the district over which the jurisdiction of the Magistrate giving the
notice extends] must have your Sarai [or Purao] registered, and that the register is to be kept
at [here state where the register is to be kept], and that if you do not have your Sarai [or Purao]
so registered, you will be liable to a penalty not exceeding twenty Rupees, and to a further
penalty not exceeding one rupee a day for every day during which the offence continues, and
that on your applying to [here give the name and address of the person to keep the register] he
will register your Sarai [or Purao] free of all charge to you.

Dated the day of 18 .

ACT No. XXIII of 1867.

(Passed on the 18th March 1867).

An Act for the suppression of murderous outrages in certain districts
of the Punjab.

Whereas in certain districts of the Punjab, fanatics have frequently
murdered or attempted to murder servants of the
Queen and other persons : And whereas the general

law of the country is not adequate to suppress such offences ; It is hereby
enacted as follows :—

1. It shall be lawful for the Lieutenant-Governor of the Punjab, with

Lieutenant-Governor the previous consent of the Governor-General of
empowered to extend this India in Council, by a proclamation published in
Act to any part of the the official Gazette, from time to time to declare any
Punjab. part or parts of the territories under his government
to be subject to the operation of all or any of the provisions of this Act, and
also, by such proclamation and with such consent as aforesaid, from time
to time to withdraw from the operation of such provisions any part or parts
of the said territories which he may previously have declared to be subject
thereto, and in like manner, as occasion shall require, to subject the same
part or parts again to the operation of the same provisions, or of any of
them.

NOTE.—Under the provisions of Section 1 of Act XXIII of 1867 (*An Act for the sup-
pression of murderous outrages in certain districts of the Punjab*) as revived and amended by
Act IX of 1877, the Hon'ble the Lieutenant-Governor, with the consent of the Right Hon'ble
the Governor-General in Council, is pleased to declare that the undermentioned districts of the
Punjab shall, until further notice, be subject to all the provisions of the said Act :—

Peshawar.
Kohat.
Hazara.

Dera Ghazi Khan.
Dera Ismail Khan.
Bannu.

(Notification No. 1063, dated 24th July 1878, —*Punjab Gazette of 25th idem*).

2. Any fanatic who shall murder or who shall, within the meaning of the Indian Penal Code, Section 307, attempt to murder any servant of the Queen or other person, shall, on conviction thereof, be punished either with death or with transportation for life, and all his property shall be forfeited to Government.

Fanatics murdering or attempting to murder liable to death or transportation for life, and forfeiture of property.

3. *Repealed by Act XVI of 1874.*

4. Whenever any fanatic shall be killed in the act of committing any such offence as aforesaid, or, being wounded and taken prisoner in the act of committing any such offence as aforesaid, shall afterwards die of his wounds, it shall be competent to the Sessions Judge or Commissioner, who under the provisions hereinafter contained would have had cognizance of the offence if the offender could have been brought to trial, to proceed to hold an inquest into the circumstances of the death of the offender, and on proof of his having been killed as aforesaid or of his having died of wounds received as aforesaid, to adjudge that the whole of his property shall be forfeited to Government and to dispose of his body as such Sessions Judge or Commissioner shall think fit.

Forfeiture of property and disposal of bodies of fanatics killed in committing outrages punishable under this Act.

NOTE.—Throughout the Act for the word "Commissioner" wherever it occurs, the words "Sessions Judge or Commissioner" have been substituted by Act IX of 1877, Section 2.

5. Subject to the provisions contained in Section 14 of this Act, any offence triable under this Act shall be tried by the Sessions Judge or Commissioner of the Division in which it has been committed; and in respect of all such offences, the Sessions Judge or Commissioner shall follow the procedure prescribed for a Magistrate by Section 149, Chapter XVII, and the provisions applicable to warrant cases of the Code of Criminal Procedure*: Provided that, if he shall be of opinion that any witness or evidence is offered for the purpose of vexation or delay or of defeating the ends of justice, he may require the accused person to satisfy him that there are reasonable grounds for believing that such witness or evidence is material, and if the Sessions Judge or Commissioner be not so satisfied, he shall not be bound to summon the witness or examine the evidence so offered.

6. Trials under this Act before the Sessions Judge or Commissioner shall be conducted with the aid of two or more assessors as members of the Court. The Sessions Judge or Commissioner may appoint such persons (other than persons specified in Section 405 of the Code of Criminal Procedure) at such time and in such manner as he may think fit to serve as assessors, and no persons shall be exempt, within the meaning of Section 406 of the same Code†, from serving as such assessors. The provisions of the Code of Criminal Procedure shall, save as aforesaid, apply to assessors appointed under this section.

7. When any trial under this Act is concluded, if the accused person be convicted, it shall be sufficient if the Court, in passing judgment and in recording the finding and sentence, shall specify the offence of which he is convicted, and the Court shall immediately issue a warrant to the officer in charge of the jail in which the prisoner is confined to cause the sentence to

What the judgment is to specify.

* 204, and Chap. XXI of Act X of 1862.
† SS. 278 and 320 of Act X of 1862.

be carried into execution, and such sentence shall be carried into execution accordingly. No sentence of death passed under this Act shall require confirmation by any Court.

8. When any person shall be sentenced to death under this Act, his body shall be disposed of, as the Sessions Judge or Commissioner by whom he was so sentenced shall direct.

9. The proceedings in every trial held under this Act shall be reported to the Lieutenant-Governor, without unnecessary delay, by the officer before whom such trial shall have been held.

10. Notwithstanding anything contained in the Code of Criminal Procedure or "The Punjab Chief Court Act, 1866," no appeal shall lie from any order or sentence under this Act.

NOTE.—The Punjab Chief Court Act, 1866, has been repealed by Act XVII of 1877.

11. If any Sessions Judge or Commissioner in whom jurisdiction is vested by this Act shall be of opinion that the accused person has committed an offence punishable under the Indian Penal Code, but that such offence is not contemplated by the preamble to this Act, the offender shall be dealt with in manner provided in such case by the Code of Criminal Procedure.

12. The said Lieutenant-Governor shall have, with respect to the confinement of any person charged with or suspected of an intention to commit any offence punishable under this Act, the powers which are vested in the Governor-General of India by any law regarding the confinement of persons charged with or suspected of State offences; and the provisions of any such law shall, *mutatis mutandis*, be applicable to all cases in which the Lieutenant-Governor shall proceed under the authority of this section.

13. Any person having the full powers of a Magistrate may cause any person, against whom there are in his judgment grounds of proceeding under the last preceding section, to be apprehended; and after such enquiry as he may think necessary, may detain such person in safe custody until he shall have received the orders of the said Lieutenant-Governor, to whom, in all such cases, he shall report his proceedings without unnecessary delay.

14. The jurisdiction conferred by this Act on a Sessions Judge or Commissioner may be exercised, in the case of any offence punishable under this Act, by any person having the full powers of a Magistrate whom the Sessions Judge or Commissioner to whom he may be subordinate, or the said Lieutenant-Governor, shall, after the commission of such offence, specially invest with such jurisdiction.

15. It shall be lawful for the said Lieutenant-Governor, either on his own motion or at the request of the Chief Court of the Punjab, from time to time, to withdraw any class of cases from the operation of this Act.

16. With the previous consent of the said Lieutenant-Governor, but not otherwise, the said Chief Court may, from time to time, make and issue circular orders for the guidance of officers in cases under this Act; provided that such orders are consistent with the provisions herein contained. All such orders shall be published in the official Gazette, and shall be obeyed by the officers aforesaid.

17. This Act shall expire in ten years from the date of passing it, or at such earlier date as the Governor-General of India in Council may order.

NOTE.—Act IX of 1877 provides that this Act shall be revived and shall remain in force till the Governor-General in Council otherwise directs. (Section 1).

ACT No. XXV of 1867.

(Passed on the 22nd March 1867).

An Act for the regulation of Printing-presses and Newspapers, for the preservation of copies of books printed in British India, and for the registration of such books.

Whereas it is expedient to provide for the regulation of printing-presses and of periodicals containing news, for the preservation of three copies of every book printed or lithographed in British India, and for the registration of such books; It is hereby enacted as follows:—

PART I.

Preliminary.

1. In this Act—unless there shall be something repugnant in the subject or context—

“Book” includes every volume, part or division of a volume, and pamphlet, in any language, and every sheet of music, map, chart or plan separately printed or lithographed:

“British India” means the territories which are or shall be vested in Her Majesty or Her Successors by the Statute 21 & 22 Vic., cap 106, (*An Act for the better government of India*), other than the Settlement of Prince of Wales’ Island, Singapore and Malacca:

“Magistrate” means any person exercising the full powers of a Magistrate, and includes a Magistrate of Police and a Justice of the Peace:

Words in the singular include the plural, and *vice versa*; words denoting the masculine gender include females:

And in every part of British India to which this Act shall extend, “Local Government” shall mean the person authorized by law to administer executive government in such part, and includes a Chief Commissioner.

2. Repealed by Act XIV of 1870.

PART II.

Of Printing-presses and Newspapers.

3. Every book or paper printed within British India, shall have printed legibly on it the name of the printer and the place of printing, and (if the book or paper be published) of the publisher; and the place of publication.

Every printed book or paper to bear name of printer and publisher.

4. No person shall, within British India, keep in his possession any press for the printing of books or papers, who shall not have made and subscribed the following declaration before the Magistrate within whose local jurisdiction such press may be :

Keeper of printing press to make declaration.

"I, A. B., declare, that I have a press for printing at ———." And this last blank shall be filled up with a true and precise description of the place where such press may be situate.

5. No printed periodical work, containing public news or comments on public news, shall be published in British India except in conformity with the rules hereinafter laid down :

Rules as to publication of printed periodicals containing public news.

(1). The printer and the publisher of every such periodical work shall appear before the Magistrate within whose local jurisdiction such work shall be published, and shall make and subscribe, in duplicate, the following declaration :

"I, A. B., declare, that I am the printer [or publisher, or printer and publisher] of the periodical work entitled——, and printed [or published, or printed and published, as the case may be] at——." And the last blank in this form of declaration shall be filled up with a true and precise account of the premises where the printing or publication is conducted :

(2). As often as the place of printing or publication is changed, a new declaration shall be necessary :

(3). As often as the printer or the publisher who shall have made such declaration as is aforesaid shall leave British India, a new declaration from a printer or publisher resident within the said territories shall be necessary.

6. Each of the two originals of every declaration so made and subscribed as is aforesaid, shall be authenticated by the signature and official seal of the Magistrate before whom the said declaration shall have been made. One of the said originals shall be deposited among the records of the office of the Magistrate, and the other shall be deposited among the records of the High Court of Judicature, or other Court within the local limits of whose ordinary original civil jurisdiction the said declaration shall have been made. The officer in charge of each original shall allow any person to inspect that original on payment of a fee of one rupee, and shall give to any person applying a copy of the said declaration, attested by the seal of the Court which has the custody of the original, on payment of a fee of two rupees.

Authentication and deposit of declaration.

Inspection and copies of declaration.

7. In any legal proceeding whatever, as well civil as criminal, the production of a copy of such declaration as is aforesaid, attested by the seal of some Court empowered by this Act to have the custody of such declarations, shall be evidence.

Office copy of declaration to be *prima facie* evidence.

held (unless the contrary be proved) to be sufficient evidence, as against the person whose name shall be subscribed to such declaration, that the said person was printer or publisher, or printer and publisher (according as the words of the said declaration may be) of every portion of every periodical work whereof the title shall correspond with the title of the periodical work mentioned in the declaration.

8. Provided always, that any person who may have subscribed any such declaration as is aforesaid, and who may subsequently cease to be printer or publisher of the periodical work mentioned in such declaration, may appear before any Magistrate and make and subscribe in duplicate the following declaration:—

“I, A. B., declare that I have ceased to be the printer [or publisher, or printer and publisher] of the periodical work entitled———.”

Each original of the latter declaration shall be authenticated by the signature and seal of the Magistrate before whom the said latter declaration shall have been made, and one original of the said latter declaration shall be filed along with each original of the former declaration. The officer in charge of each original of the latter

declaration shall allow any person applying to inspect that original on payment of a fee of one rupee, and shall give to any person applying a copy of the said latter declaration, attested by the seal of the Court having custody of the original, on payment of a fee of two rupees. In all trials in which a copy, attested as is aforesaid, of the former declaration shall have been put in evidence, it shall be lawful to put in evidence a copy, attested as is aforesaid, of the latter declaration, and the former declaration shall not be taken to be evidence that the declarant was, at any period subsequent to the date of the latter declaration, printer or publisher of the periodical work therein mentioned.

PART III.

Delivery of Books.

9. Three printed or lithographed copies of the whole of every book which shall be printed or lithographed in British India after this Act shall come into force, together with all maps, prints or other engravings belonging thereto, finished and colored in the same manner as the best copies of the same shall be produced, and also of any second or subsequent edition which shall be so produced with any additions or alterations, whether the same shall be in letter-press or in the maps, prints, or other engravings belonging thereto, and whether the first edition of such book shall have been produced before or after this Act shall come into force, shall, within one calendar month after the day in which any such book shall first be delivered out of the press, and notwithstanding any agreement (if the book be published) between the printer and publisher thereof, be delivered by the printer, bound, sewed or stitched together, and upon the best paper on which the same shall be printed or lithographed, at such place and to such officer as the Local Government shall, by notification in the official Gazette, from time to time direct. The publisher or other person employing the printer shall, at a reasonable time before the expiration of the said month, supply him with all maps, prints and engravings, finished and colored as aforesaid, which may

be necessary to enable him to comply with the requirements aforesaid, Nothing in the former part of this section shall apply to any periodical work published in conformity with the rules laid down in Section 5 of this Act.

10. Such officer shall thereupon give a receipt in writing for the copies
 Receipt and payment so received, and if the book is for sale to the public,
 for copies. shall, on the publication thereof, pay the publisher
 for the same copies at the rate at which the book
 shall be *bonâ fide* sold for cash to the public.

11. One of such copies shall be transmitted to the Secretary of State
 Disposal of the three for India, another copy shall be disposed of as the
 copies. Governor-General of India in Council shall from
 time to time, by general or special order direct, and
 the remaining copy shall, after a memorandum containing the particulars
 hereinafter mentioned respecting the book shall have been registered as here-
 inafter provided, be deposited in such public library, or be otherwise disposed
 of, as the Local Government shall from time to time determine.

PART IV.

Penalties.

12. Whoever shall print or publish any book or paper otherwise than
 Penalty for printing con- in conformity with the rule contained in Section 3 of
 trary to rule in Section 3. this Act, shall, on conviction before a Magistrate, be
 punished by fine not exceeding five thousand rupees, or by simple imprison-
 ment for a term not exceeding two years, or by both.

13. Whoever shall keep in his possession any such press as aforesaid
 without making such a declaration as is required by
 Penalty for keeping Section 4 of this Act, shall, on conviction before a
 press without making Magistrate, be punished by fine not exceeding five
 declaration required by thousand rupees, or by simple imprisonment for a
 Section 4. term not exceeding two years, or by both.

14. Any person who shall, in making any declaration under the autho-
 Punishment for making rity of this Act, make a statement which is false, and
 false statement. which he either knows or believes to be false, or
 does not believe to be true, shall, on conviction before a Magistrate, be
 punished by fine not exceeding five thousand rupees, and imprisonment for
 a term not exceeding two years.

15. Whoever shall print or publish any such periodical work as is
 Penalty for printing or publishing periodicals with- hereinbefore described, without conforming to the
 out conforming to rules. rules hereinbefore laid down, or whoever shall print
 or publish, or shall cause to be printed or published,
 any such periodical work, knowing that the said rules have not been observed
 with respect to that work, shall on conviction before a Magistrate be punish-
 with fine not exceeding five thousand rupees, or imprisonment for a term
 not exceeding two years, or both.

16. If any printer of any such book as is referred to in Section 2 of
 Penalty for non-delivery this Act, or of any second or subsequent edition of
 of books. any such book, shall neglect to deliver three copies
 of the same pursuant to this Act, he shall, for every such default, forfeit
 besides the value of the copies which he ought to have delivered, a sum not

exceeding fifty rupees, to be recovered by the said officer on conviction before a person exercising any of the powers of a Magistrate. If any publisher or other person employing any such printer shall neglect to supply him in manner aforesaid with the maps, prints or engravings, finished and colored as aforesaid, which may be necessary to enable him to comply with the provisions of the same section, such publisher or other person shall, for every such default, forfeit, besides the value of the said maps, prints or engravings, which he ought to have supplied, a sum not exceeding the said amount, and such sum shall be recovered in manner last aforesaid.

17 All pecuniary penalties imposed under this Act may be recovered, if for offences committed outside the local limits of the towns of Calcutta, Madras and Bombay, in the manner prescribed by the Code of Criminal Procedure, and if for offences committed within those limits, in the manner prescribed by any Act for regulating the police of such towns in force for the time being. All such penalties shall be disposed of as the Local Government shall from time to time direct.

NOTE:—No prosecution should be instituted against the Press in the Punjab without the previous sanction of the Local Government.—(*Punjab Government Circular No. 73—3305, dated 9th October, 1872*).

PART V.

Registration of Books.

18. There shall be kept at such office, and by such officer as the Local Government shall appoint in this behalf, a book to be called a Catalogue of Books printed in British India, wherein shall be registered a memorandum of every book which shall have been delivered pursuant to Section 9 of this Act. Such memorandum shall (so far as may be practicable) contain the following particulars (that is to say) :—

- (1).—The title of the book and the contents of the title-page, with a translation into English of such title and contents, when the same are not in the English language :
- (2).—The language in which the book is written :
- (3).—The name of the author, translator, or editor of the book or any part thereof :
- (4).—The subject :
- (5).—The place of printing and the place of publication :
- (6).—The name or firm of the printer and the name or firm of the publisher :
- (7).—The date of issue from the press or of the publication :
- (8).—The number of sheets, leaves, or pages :
- (9).—The size :
- (10).—The first, second or other number of the edition :
- (11).—The number of copies of which the edition consists :

(12).—Whether the book is printed or lithographed :

(13).—The price at which the book is sold to the public :

(14).—The name and residence of the proprietor of the copyright or of any portion of such copyright :

Such memorandum shall be made and registered in the case of each book as soon as practicable after the delivery of the copies thereof in manner Registration of memo- aforesaid. Every registration under this section random.

shall, upon payment of the sum of two rupees to the officer keeping the said catalogue, be deemed to be an entry in the book of registry kept under Act No. XX of 1847 (*for the encouragement of learning in the territories subject to the government of the East India Company, by defining and providing for the enforcement of the right called copyright therein*) ; and the provisions contained in that Act as to the said book of registry shall apply, *mutatis mutandis*, to the said catalogue.

19. The memoranda registered during each quarter in the said

Publication of memoranda catalogue shall be published in the local Gazette, as registered. soon as may be after the end of such quarter, and a copy of the memoranda so published shall be sent to the said Secretary of State, and to the Secretary to the Government of India in the Home Department respectively.

PART VI.

Miscellaneous.

20. The Local Government shall have power to make such rules as

Power to make rules. may be necessary or desirable for carrying out the objects of this Act, and from time to time to repeal, alter and add to such rules. All such rules, and all repeals and alterations thereof, and additions thereto, shall be published in the local Gazette.

NOTE.—Under the provisions of Section 20, Act XXV. of 1837, the Hon'ble the Lieutenant-Governor is pleased to sanction the following rules in supersession of those published in Punjab Government Notification No. 1463, dated 7th June 1867 :—

I.—The three copies of the books referred to in Section 9 will be delivered by the Printer to the Deputy Commissioner of the District in which the press issuing the work is situated, along with the bill of their cost, which will be paid by the Deputy Commissioner.

II.—The Deputy Commissioner will send the three copies to the Superintendent of the Government Educational Press, who will forward monthly to the Secretary to the Government of the Punjab for disposal under the orders of the Government of India in the Home Department two copies each of the books registered during the preceding month, accompanied by a list in duplicate. The third copy will be deposited in the Punjab Public Library as soon as the catalogue mentioned in the following rule has been prepared, and will be accessible to the public for reference.

III.—The catalogue of publications prescribed by Section 18 will be prepared under the orders of the Director of Public Instruction, who will transmit to this office quarterly a copy of the memoranda registered during the preceding quarter for publication in the Gazette.

IV.—All persons keeping a press for the printing of books or papers are required to deliver annually to the Deputy Commissioner of the District, on or before the 10th January, a list in the form prescribed by Section 18 of the Act, of all publications which have issued from their press during the previous year.

(Notification No. 398 S. dated 23rd June 1885, Punjab Gazette of 25th idem, Part I, page 456).

21. The Governor-General of India in Council may, by notification

Power to exclude any in the Gazette of India, exclude any class of books class of books from opera- from the operation of the whole or any part or tion of Act. parts of this Act.

NOTES.—(a). By virtue of the power vested in him by this section the Governor-General in Council has declared that all books, maps, sketches, charts and papers printed or published under orders of Government, or for official purposes, are exempted from the provisions of this Act.—(Notification No. 1294, dated 12th March 1868 —Gazette of India of 41th idem).

(b). The Governor-General in Council has also declared that the following publications are exempted from the provisions of this Act:—

- 1.—*Reprints of books without additions or alterations, and without new notes or commentaries.*
- 2.—Acts of the Legislative Councils, without notes or commentaries.
- 3.—Price lists and tradesmen's circulars.
- 4.—Catalogues of books and other articles, auctioneers' notices and advertisements.
- 5.—Play bills, comprising advertisements of theatrical and musical entertainments.
- 6.—Decisions of Courts of law without notes or commentaries.
- 7.—Petitions and appeals addressed to constituted authority under the provisions of law.
- 8.—Testimonials of private individuals or public officers.
- 9.—Annual reports of schools, banks, societies and firms.
- 10.—Almanacs and calendars.
- 11.—Labels affixed to articles of commerce.—(*Government of India Notification No. 5604, dated 21st December 1871—Punjab Gazette of 18th January, 1872, p. 44*).

(c) Clause 1 of the above Notification exempting "reprints of books without additions or alterations and without new notes or commentaries" has been cancelled by No. 3276, dated 16th August 1872. All such reprints will in future be registered in accordance with the provisions of this Act.

(d). The Governor-General in Council has exempted from the operation of this Act all reprints and translations, without comment or annotation, of Acts of the several Indian Legislatures published in British India.—(*Notification No. 5793, dated 30th December 1870*).

22. Part III, and Section 16, and Part V of this Act shall remain in force until the Governor-General of India in Council shall declare to the contrary by notification in the *Gazette of India*.

Continuance of Act.

23. *Repealed by Act XIV of 1870.*

NOTE.—This Act is declared to be in force throughout the whole of British India, except the Scheduled Districts, by Act XV of 1874. It has also been declared to be in force in certain of the Scheduled Districts of the Punjab, but not in Lahul (*vide* Notes (a) and (b) to Act XIV of 1874).

ACT No. I of 1868.

(*Passed on the 3rd January 1868*).

An Act for shortening the language used in Acts of the Governor-General of India in Council and for other purposes.

Whereas it is expedient to shorten the language used in Acts made by the Governor-General of India in Council, and to make certain provisions relating to such Acts; It is hereby enacted as follows:—

Preamble.

Short title.

1. This Act may be cited as "The General Clauses Act, 1868."

Interpretation clause.

2. In this Act and in all Acts made by the Governor-General of India in Council after this Act shall have come into operation,—unless there be something repugnant in the subject or context,—

Gender.

(1). Words importing the masculine gender shall be taken to include females;

Number. (2). Words in the singular shall include the plural, and *vice versa* ;

"Person." (3). "Person" shall include any company, or association, or body of individuals whether incorporated or not ;

"Year" and "month." (4). "Year" and "month" shall respectively mean a year and month reckoned according to the British calendar ;

(5). "Immoveable property" shall include land, benefits to arise out of land, and things attached to the earth, or permanently fastened to anything attached to the earth ;

"Moveable property." (6). "Moveable property" shall mean property of every description, except immoveable property ;

"Her Majesty." (7). "Her Majesty" shall include Her heirs and successors to the Crown ;

(8). "British India" shall mean the territories for the time being vested in Her Majesty by the Statute 21 & 22 Vic., cap. 106 (*An Act for the better government of India*), other than the Settlement of Prince of Wales' Island, Singapore, and Malacca ;

(9). "Government of India" shall denote the Governor-General of India in Council, or during the absence of the Governor-General of India from his Council, the President in Council, or the Governor-General of India alone, as regards the powers which may be lawfully exercised by them or him respectively ;

(10). "Local Government" shall mean the person authorized by law to administer executive government in the part of British India in which the Act containing such expression shall operate, and shall include a Chief Commissioner ;

"High Court." (11). "High Court" shall mean the highest Civil Court of appeal in such part ;

(12). "District Judge" shall mean the Judge of a principal Civil Court of original jurisdiction ; but shall not include a High Court in the exercise of its ordinary or extraordinary original civil jurisdiction ;

(13). "Magistrate" shall include all persons exercising all or any of the powers of a Magistrate under the Code of Criminal Procedure ;

"Barrister." (14). "Barrister" shall mean a barrister of England or Ireland, or a member of the Faculty of Advocates in Scotland ;

Section." (15). "Section" shall denote a section of the Act in which the word occurs ;

"Will." (16). "Will" shall include a codicil and every writing making a voluntary posthumous distribution of property ;

(17). "Oath," "swear," and "affidavit" shall include affirmation, "Oath," "swear," and declaration, affirming and declaring in the case of "affidavit." persons by law allowed to affirm or declare instead of swearing;

"Imprisonment." (18). "Imprisonment" shall mean imprisonment of either description as defined in the Indian Penal Code;

(19). And in the case of any one whose personal law permits adoption, "Son." "son" shall include an adopted son, and "father" an "Father." adoptive father.

3. In all Acts made by the Governor-General of India in Council after this Act shall have come into operation—

(1). For the purpose of reviving, either wholly or partially, a Statute Revival of repealed Act or Regulation wholly or partially repealed, it enactments. shall be necessary expressly to state such purpose;

NOTE.—As amended by Act I of 1887, S. 9.

(2). For the purpose of excluding the first in a series of days or any Commencement of time. other period of time, it shall be sufficient to use the word "from";

(3). For the purpose of including the last in a series of days or any Termination of time. other period of time, it shall be sufficient to use the word "to";

(4). For the purpose of expressing that a law relative to the chief or Official chiefs and superior of an office shall apply to the deputies or subordinates. subordinates. and subordinates lawfully executing the duties of such office in the place of their superior, it shall be sufficient to prescribe the duty of the superior;

(5). For the purpose of indicating the relation of a law to the successors Successors. of any functionaries, or of corporations having perpetual succession, it shall be sufficient to express its relation to the functionaries or corporations; and

(6). For the purpose of indicating the application of a law to every Substitution of func- person or number of persons for the time being tionaries. executing the functions of an office, it shall be sufficient to mention the official title of the officer at present executing such functions, or that of the officer by whom the functions are commonly executed.

4. Whenever by any Act or Regulation now in force or hereafter Duty may be taken *pro* to be in force, any duty of customs or excise, or in rata. the nature thereof, is leviable on any given quantity, by weight, measure or value, of any goods or merchandize, a like duty shall be leviable according to the same rate on any greater or less quantity.

5. The provisions of Sections sixty-three to seventy, both inclusive, of Recovery of fines. the Indian Penal Code, and of Section 307 of the Code of Criminal Procedure, shall apply to all fines imposed under the authority of any Act hereafter to be passed, unless such Act shall contain an express provision to the contrary.

6. The repeal of any Statute, Act or Regulation, shall not affect any thing done, or any offence committed, or any fine or penalty incurred, or any proceedings commenced before the repealing Act shall have come into operation.

Matters done under an enactment before its repeal to be unaffected.

7, 8. Repealed by Act I of 1872.

NOTE.—See Act I of 1887.

ACT No. XIV of 1868.

(Passed on the 17th April 1868).

An Act for the prevention of certain Contagious Diseases.

Whereas it is expedient to provide for the better prevention of certain contagious diseases; It is hereby enacted as follows :—

Preamble.

Preliminary.

Short title. 1. This Act may be cited as “The Indian ‘Contagious Diseases’ Act, 1868.”

Interpretation clause. 2. In this Act—

“Magistrate” means any person exercising the powers of a Magistrate or of a subordinate Magistrate of the first class, and includes a Magistrate of Police in a presidency town :

“Magistrate.”

“Contagious disease.” “Contagious disease” means any contagious venereal disease :

“Brothel-keeper” means the occupier of any house, room or place to or in which women resort or are for the purpose of prostitution, and every person managing or assisting in the management of any such house, room or place.

“Brothel-keeper.”

3. The places to which this Act applies, shall be such places as the Local Government shall from time to time, with the previous sanction of the Governor-General of India in Council, specify by notification in the official Gazette. The limits of such places shall, for the purposes of this Act, be such as are defined in the said notification, and may from time to time, with such sanction as aforesaid, be altered by a like notification.

Extent of Act.

Unregistered Prostitutes and Brothel-keepers.

4. In any place to which this Act applies, no woman shall carry on the business of a common prostitute, and no person shall carry on the business of a brothel-keeper, without being registered under this Act at such place, and without having in her or his possession such evidence of registration as herein after provided.

Punishment of unregistered prostitutes, and brothel-keepers.

Any woman carrying on the business of a common prostitute, and any person carrying on the business of a brothel-keeper, without having been registered as aforesaid, or without having in her or his possession such evidence as aforesaid, shall, on conviction before a Magistrate, be punished with imprisonment for a term which may extend to one month, or with fine not exceeding one hundred rupees, or with both.

Registration of Prostitutes and Brothel-keepers.

5. The Local Government shall make rules for the registration of common prostitutes and of brothel-keepers, and shall appoint officers for the conduct of such registration, and may, with the previous sanction of the Governor-General of India in Council, assign salaries and establishments to the said officers. The Local Government shall also provide such books and forms as may be necessary for the purposes of this Act.

Every woman complying with such rules (so far as they relate to prostitutes) and every brothel-keeper complying with such rules (so far as they relate to brothel-keepers) shall be deemed to be registered under this Act, and the registering officer shall furnish her or him with such evidence of registration as the Local Government shall from time to time direct.

The name, age, caste (if any), and residence of every such woman, and such other particulars respecting her as the Local Government shall from time to time direct, shall be entered in a book to be kept for that purpose.

The name and residence of every such brothel-keeper, and the situation of the house, room or place in which he carries on his business, shall be entered in a book to be kept for that purpose.

NOTE.—For the rules and regulations for inspecting and controlling houses of ill fame, see Act III of 1880, Note (g).

6. Whenever any such woman changes her residence, she shall give notice thereof to such person and in such manner as the Local Government shall from time to time direct, and the necessary alterations shall be made in the said book and in the evidence of registration furnished to her as aforesaid.

Any such woman failing to give notice as aforesaid shall, on conviction before a Magistrate, be punished with imprisonment for a term which may extend to fourteen days, or with fine not exceeding fifty rupees, or with both.

Whenever any brothel-keeper changes his residence or acquires or enters into the occupation of any such house, room or place as last aforesaid, other than the house, room or place of which the situation has been registered as aforesaid, he shall give notice thereof to such person and in such manner as the Local Government shall from time to time direct, and the necessary alterations or additions shall be made in or to the said book and in the evidence of registration furnished to him as aforesaid.

Any such brothel-keeper failing to give notice as last aforesaid shall, on conviction before a Magistrate, be punished with imprisonment for a term which may extend to one month, or with fine not exceeding one hundred rupees, or with both.

Refusal to show Evidence of Registration.

7. Any registered woman or brothel-keeper who, without reasonable excuse, neglects or refuses to produce and show the evidence of her or his registration with which she or he shall have been furnished as aforesaid, when required so to do by such officer as the Local Government shall from time to time appoint in this behalf, shall, on conviction before a Magistrate be punished with imprisonment for a term which may extend to fourteen days, or with fine not exceeding fifty rupees, or with both :

Information of the class of officers for the time being authorized to make requisitions under this section shall be furnished to registered women and brothel-keepers, under such rules as the Local Government shall from time to time prescribe.

Special Provisions relating to Brothels.

8. If any brothel-keeper, whether registered as such under this Act or not, has reasonable cause to believe any woman to be a prostitute and not to be registered under this Act, and induces or suffers her to resort or be, for the purpose of prostitution, to or in the house, room or place in which he carries on his said business, he shall, on conviction before a Magistrate, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both

Provided that nothing in this or any other section of this Act shall exempt the offender from any penal or other consequences to which he may be liable for keeping or being concerned in keeping a brothel or disorderly house, or for the nuisance thereby occasioned.

9. Every such brothel-keeper shall be legally bound to furnish information on any subject relating to his business to such officers, and in such manner and at such times as the Local Government shall from time to time prescribe in this behalf. Every such officer shall, for the purposes of this section, be deemed to be a public servant.

Examination of Prostitutes.

10. The Local Government shall have power to appoint persons to make periodical examinations of registered women in order to ascertain whether at the time of each such examination they are affected with contagious disease.

11. For each of the places to which this Act applies, the Local Government may make rules consistent with this Act respecting the times and places of examination under this Act at that place, and generally respecting the arrangements for the conduct of those examinations, and for recording the results thereof, and a copy of rules purporting to be rules under this section shall, if signed by a Secretary to such Government, be evidence of such rules for the purposes of this Act.

The Local Government may also require the person making such examination to send in reports to such persons at such times and in such form as the Local Government shall from time to time prescribe.

Any person not a medical officer appointed to make such examination, and any registered woman, disobeying any rule made under this section, shall, on conviction before a Magistrate, be punished with simple imprisonment for a term which may extend to one month, or with fine not exceeding one hundred rupees, or with both.

Certified Hospitals.

Local Government may provide and certify hospitals.

12. The Local Government may from time to time provide any buildings or parts of buildings as hospitals for the purposes of this Act.

Any building or part of a building so provided and certified in writing by a Secretary to the Local Government to be so provided, shall be deemed a certified hospital under this Act.

Every certified hospital so provided shall be placed under the control and management of such persons as to the Local Government shall from time to time seem fit.

NOTE.—See Act XXVI of 1868, *infra* p. 370.

13. The Local Government shall make regulations for the inspection, management and government of the hospitals as far as regards women authorized by this Act to be detained therein for medical treatment, or being therein under medical treatment for a contagious disease.

A copy of regulations purporting to be regulations made under this section shall, if signed by a Secretary to such Government, be evidence of such regulations for the purposes of this Act.

14. Any woman registered under this Act shall, on receiving notice from any such officer as the Local Government shall from time to time appoint in this behalf, proceed to the certified hospital named in such notice, and place herself there for medical treatment.

If after the notice is delivered to her, she neglects or refuses to proceed to the said hospital within the time specified in the said notice, an officer of police shall apprehend her and convey her with all practicable speed to such hospital, and place her there for medical treatment.

15. Whenever any such woman affected with contagious disease places herself or is placed as aforesaid in a certified hospital for medical treatment, she shall be detained there for that purpose by such medical officer of the hospital, as the Local Government shall from time to time appoint in this behalf until discharged by him by writing under his hand.

Medical treatment, lodging, clothing and food shall be provided gratis for every such woman during her detention in the hospital.

16. If any woman authorized by such medical officer to be detained in a certified hospital for medical treatment, quits the hospital without being discharged therefrom by the chief medical officer thereof, by writing under his hand (the proof whereof shall lie on the accused), or

if any woman authorized by this Act to be detained in a certified hospital for medical treatment, or any woman being in a certified hospital under medical treatment for a contagious disease, refuses or wilfully neglects while in the hospital to conform to the regulations thereof approved under this Act,

then and in every such case such woman shall, on conviction before a Magistrate, be punished with imprisonment, in the case of a first offence, for any term not exceeding one month, and in the case of a second or any subsequent offence, for any term not exceeding three months; and in case she quits the hospital without being discharged as aforesaid she may be taken into custody without warrant by any officer of police.

On the expiration of the term of imprisonment under this section, such woman shall be sent back from the prison to the certified hospital, and shall be detained there unless the medical officer of the prison at the time of her discharge from imprisonment certifies in writing that she is free from contagious disease (the proof of which certificate shall lie on her).

Out-door treatment of Prostitutes.

17. It shall be lawful for the Local Government to empower such surgeons or other persons as it shall from time to time appoint, to prescribe, by order to be served on any woman registered under this Act, who has not received a notice under section fourteen, the times and places at which she shall attend for medical treatment, and, if necessary, the medical treatment to which she shall submit.

Every such woman disobeying or failing to comply with any such order, shall, on conviction before a Magistrate, be punished with imprisonment for a term which may extend to a month, or with fine not exceeding one hundred rupees, or with both.

18. If any registered woman on whom such order as last aforesaid shall have been served, conducts herself as a common prostitute before such surgeon or other person empowered as last aforesaid certifies in writing to the effect that she is then free from a contagious disease (the proof of which certificate shall lie on her), she shall, on conviction before a Magistrate, be punished with imprisonment for a term which may extend to six months, or with fine not exceeding five hundred rupees, or with both.

19. During the interval between the service of such order upon any registered woman and the granting of such certificate, an allowance for her subsistence shall be provided of such amount and in such manner as the Local Government shall from time to time prescribe.

Segregation of Prostitutes.

20. In any place to which the Local Government shall, by notification in the official Gazette, have specially extended this section, it shall be lawful for such officer as the Local Government shall from time to time appoint in this behalf, to cause a notice to be served on any registered woman, requiring her, after an interval of not less than seven days to be mentioned in the notice, not to reside in any street or place therein specified. Any registered woman on whom such notice shall have been served disobeying the requisition therein contained shall, on conviction before a Magistrate, be punished with imprisonment, in the case of a first offence, for any term not exceeding one month, and in the case of a second or any subsequent offence, for any term not exceeding three months.

Removal from Registry.

21. The Local Government shall lay down rules prescribing a procedure in accordance with which any woman registered under this Act, and desirous of ceasing to carry on the business of a common prostitute in the place at which she is registered, and of having her name removed from the said book, may have her name removed accordingly.

Miscellaneous.

22. No prosecution shall be instituted under this Act except at the instance of such officer as the Local Government shall, from time to time, appoint in this behalf.

23. In any proceeding under this Act, any notice, order, certificate, copy of regulations, or other document purporting to be signed by any person in the service of Government, or by any person whom the Local Government shall have, in exercise of the powers conferred on it by this Act, appointed to sign such document, shall on production be received in evidence and shall be presumed to have been duly signed by the person and in the character by whom and in which it purports to be signed, until the contrary is shown.

24. Every notice and order required by this Act to be served on a woman shall be served by delivery thereof either to her personally or to some person for her at her usual place of abode.

25. Any suit against any person for anything done in pursuance of this Act, shall be commenced within three months after the thing done, and not otherwise.

Notice in writing of every such suit, and of the cause thereof, shall be given to the intended defendant one month at least before the commencement of the suit.

The plaintiff shall not recover if tender of sufficient amends is made before suit, or if a sufficient sum of money is paid into Court after suit brought, by or on behalf of the defendant.

NOTE.—So much of this section as relates to the limitation of suits is repealed by Act of 1871.

26. The Local Government shall have power from time to time to declare by what officer any thing directed to be done by this Act shall be done, and by what class of officers information regarding anything made an offence by this Act shall be exclusively furnished.

The Local Government may also from time to time make rules consistent with this Act for the guidance of officers in all matters connected with its enforcement

The Local Government may also from time to time alter and add to any rules or regulations made under this Act: Provided that such alterations and additions are not inconsistent with any of the provisions hereinbefore contained.

NOTES.—(a). As references are being frequently made to this Government for orders in regard to the provision of funds for lock-hospitals, copies of the Resolutions of the Supreme Government marginally noted are circulated for information and guidance. It is stated in the first communication from the Home Department, that the funds of municipalities cannot legally, in the present state of the law, be made available for lock-hospitals, and that expenditure on this account, when it cannot be met from Cantonment Funds, will be borne by the imperial revenues; and in the second despatch it is laid down that the charge will be against the Military Department, to be recovered in the manner therein indicated.—(*Punjab Government Circular No. 67—706, dated 11th November 1871*).

No. 44—3009, dated Simla, the 16th July 1868, from E. C. Bayley, Esq., Secretary to Government of India, Home Department, to the Secretary to Government, Punjab.

THE question as to the manner in which the cost of lock-hospitals established for the benefit of the European troops in Cantonments or in their vicinity should be defrayed, having been considered by the Governor-General in Council, I have the honor to communicate the following instructions:

2. His Excellency is of opinion that it is expedient that the cost of these establishments should be, under existing circumstances, defrayed from the imperial revenues.

3. Where there is a separate Cantonment Fund, the whole or a portion of the charge, as may be fair in each case, will be recovered from such fund.

4. In the present state of the law, the funds of municipalities cannot legally be made available for lock-hospitals, and it is expedient that, for the present at least, the management of these institutions, and the general superintendence of the measures necessary for the prevention of venereal disease should be under the control of Government officers.

5. It is proposed to legislate to enable municipalities to provide the funds required for carrying out such objects where they themselves desire to do so. They should not, however, at present be invited to pay any share of the cost of lock-hospitals established primarily for the benefit of the troops, even in cases in which the advantages derived from these institutions are shared by the people of the town.

6. Where there is a town in the immediate vicinity of a Cantonment, preventive measures must necessarily be extended to the former as well as to the latter. This should be done either by means of rules passed under Act XXII of 1864 or by the extension to the town of Act XIV of 1868. It is usually impossible in such cases to protect the health of the troops by measures confined to the Cantonment, and the Government will, therefore, not object to meet any reasonable charge that may be necessary for the prevention of venereal disease throughout the whole circle within which preventive measures are required. A special report should however, be made to the Government of India in all cases in which it is thought necessary to incur expenditure for these purposes beyond the limits of the Cantonment.

7. I am to invite the particular attention of His Honor the Lieutenant-Governor to this subject. It has been conclusively proved by experience in some of the largest Cantonments and cities in India, that there are no insuperable difficulties in the way of bringing about a very great diminution in these diseases, and the Governor-General in Council trusts that no efforts will be spared in carrying out measures which, if successful, will lead to results of the utmost importance to the health and efficiency of the army, and which will at the same time be highly beneficial to the civil population.

8. The present instructions will supersede all former rulings regarding the manner in which charges for lock-hospitals are to be met, including those laid down in the orders of the Military Department, No. 21, dated 1st March 1866, and all outstanding claims will be adjusted on these principles.

No. 453, dated 18th March 1870, from Colonel H. K. Burne, Deputy Secretary to Government of India, Military Department, to the Controller of Military Accounts.

1st.—The issuing of all orders to the Pay Department through the Government of India, Military Department.

2nd.—Whether the expenses should, in the first instance, be paid by the Cantonment Fund or the Military Department.

3rd.—The proportion or limit of the expenses to be met from imperial funds.

4th.—The payment of all expenses to be borne by the Military Department to be paid by the Military Account Department Officers only.

I AM directed to acknowledge your letters No. 749, dated 3rd August 1869, and No. 1260, dated 30th October 1869, requesting instructions on certain points* regarding the mode to be followed in providing for and debiting the costs of Cantonment lock hospitals of the Bengal Presidency.

2. In reply, I am to acquaint you that the Right Hon'ble the Governor-General in Council approves of your proposal that the issue of all orders to the Pay Department in respect to lock-hospitals shall be made through the Government of India.

3. As respects your 2nd, 3rd, and 4th enquiries, I am to acquaint you that the whole charge should be borne by Cantonment Funds. When, however, these funds are incapable of defraying the charge wholly or in part, the entire cost, or the balance left in excess of the contribution by the Cantonment Fund, will be a charge upon the Government in the Military Department, all payments being, as a rule, made in the first instance by the local authorities, the management of the hospitals being left in their hands. On its being shown that the Cantonment Funds are unable to bear permanently either the whole or any portion of the charge, the monthly deficit should be reimbursed on presentation of a bill to the Circle Paymaster. In order that due provision may be made in the budget estimate for the year, the probable sum to be paid by the Cantonment Fund, and the portion recoverable from the Circle Paymaster, should be considered annually in the office of the Quartermaster-General, the necessary information being afforded, under the orders of the Commander-in-Chief, to the Controller of Military Accounts.

(b). Copy of the following correspondence from the Government of India, prohibiting the levy of fees from prostitutes, is forwarded to all Commissioners, Deputy Commissioners, and Cantonment Magistrates for information and guidance.—

No. 220, dated 9th August 1875.

From—The Officiating Secretary to Government of India, Home Department,

To—The Chief Commissioner of Oudh.

With reference to your letter No. 2842, dated the 17th June, regarding the levy of fees from prostitutes registered under Act XIV of 1868, I am directed to say that the levy of fees is not authorized by the Act; and I am to forward, for information and guidance, the enclosed letter from the Military Department, No. 129, dated 4th September 1873.

No. 129, dated 4th September 1873.

From—The Secretary to the Government of India, Military Department,

To—The Secretary to Government of Bombay, Military Department.

Having laid the proposal contained in your letter No. 2819, dated the 5th July 1873, to re-impose registration fees on prostitutes at Mhow, before the Right Honorable the Governor-General in Council, I am directed to acquaint you, for the information of the Government of Bombay, that, in the opinion of His Excellency in Council, the levy of such fees should be prohibited, as he cannot regard payment made from the wages of prostitution as a legitimate source from which to meet the expenditure on lock-hospitals.

No. 11—225, dated 9th August 1875.

Copy forwarded to Local Governments and Administrations for information and guidance.
(Punjab Government Circular No. 37—3094, dated 20th August 1875).

ACT No. XXVI of 1868.

(Passed on the 15th October 1868).

An Act to enable Municipalities to provide for lock-hospitals.

Whereas it is expedient to enable all municipalities in British India to provide out of the municipal funds for the maintenance of Lock-hospitals, and generally for the prevention of contagious venereal disease; It is hereby enacted as follows:—

Preamble.

1. Notwithstanding anything contained in any Act of the Governor-General of India in Council, of the Governor of Bombay in Council, of the Lieutenant-Governor of Bengal in Council, or in any other law for the time being in force,

Power to municipal committees to devote funds to maintaining lock-hospitals, &c.

it shall be lawful for every municipal corporation, municipal committee, or other body of persons duly appointed to conduct the affairs of a municipality in British India to pay, with the previous sanction of the Local Government, out of the funds at their disposal,

towards the maintenance of the hospital provided under Section twelve of Act No. XIV of 1868 (*For the prevention of certain contagious diseases*) within the limits of the place for which they are so appointed,

and towards defraying the cost of the medical treatment, lodging, clothing and food of the women detained in such hospital, and of the allowance provided under Section nineteen of the same Act for the subsistence of prostitutes residing within the limits aforesaid,

such part as may from time to time be agreed on by and between the corporation, committee or body, and the Local Government, of the total cost of the said maintenance, treatment, lodging, clothing, food and allowance as annually estimated by such Government.

NOTE.—See notes at the end of the preceding Act (XIV of 1868).

ACT No. IV of 1869.

(Passed on the 26th February 1869).

An Act to amend the law relating to Divorce and Matrimonial Causes in India.

Whereas it is expedient to amend the law relating to the divorce of persons professing the Christian religion, and to confer upon certain Courts jurisdiction in matters matrimonial; It is hereby enacted as follows :—

Preamble.

I.—Preliminary.

Short title.

Commencement of Act.

1. This Act may be called "The Indian Divorce Act," and shall come into operation on the first day of April 1869.

Extent of Act.

2. This Act shall extend to the whole of British India, and (so far only as regards British subjects within the dominions hereinafter mentioned) to the dominions of Princes and States in India in alliance with Her Majesty.

Nothing hereinafter contained shall authorize any Court to grant any relief under this Act, except in cases where the petitioner professes the Christian religion and resides in India at the time of presenting the petition;

Extent of power to grant relief generally.

or to make decrees of dissolution of marriage except in the following cases :—(a) where the marriage shall have been solemnized in India; or (b) where the adultery, rape or unnatural crime complained of shall have been

And to make decrees of dissolution.

committed in India ; or (c) where the husband has, since the solemnization of the marriage, exchanged his profession of Christianity for the profession of some other form of religion ;

Or of nullity. or to make decrees of nullity of marriage except in cases where the marriage has been solemnized in India.

NOTE.—This Act applies to all marriages contracted under Act III of 1872.

Interpretation-clause. 3. In this Act, unless there be something repugnant in the subject or context,—

(1). “ High Court ” means in any Regulation province the Court there established under the Act of the twenty-fourth and twenty-fifth of Victoria, Chapter one hundred and four ;

in the territories for the time being subject to the government of the Lieutenant-Governor of the Punjab, the Chief Court of the Punjab ;

in British Burma, the High Court of Judicature at Fort William in Bengal,

and in any other Non-Regulation province and in any place in the dominions of the Princes and States in alliance with Her Majesty the High Court or Chief Court to whose original criminal jurisdiction the petitioner is for the time being subject, or would be subject if he or she were an European British subject of Her Majesty :

In the case of any petition under this Act, ‘ High Court ’ is that one of the aforesaid Courts within the local limits of whose ordinary appellate jurisdiction, or of whose jurisdiction under this Act, the husband and wife reside or last resided together.

(2). “ District Judge ” means, in the Regulation provinces, a Judge of a principal Civil Court of original jurisdiction ;

in the Non-Regulation Provinces, other than British Burma and Sindh, a Commissioner of a Division ;

in Pegu, the Recorder at Rangoon ;

in Arakan, the Recorder at Rangoon until a Recorder’s Court is established at Akyab, and thenceforward the Recorder at Akyab ;

in the Tenasserim provinces, the Recorder at Maulmain ;

in Sindh, the Judicial Commissioner in that province,

and in any place in the dominions of the Princes and States aforesaid, such officer as the Governor-General of India in Council shall from time to time appoint in this behalf by notification in the *Gazette of India*, and, in the absence of such officer, the High Court in the exercise of its original jurisdiction under this Act.

(3). “ District Court ” means, in the case of any petition under this Act, the Court of the District Judge within the local limits of whose ordinary jurisdiction, or of whose jurisdiction under this Act, the husband and wife reside or last resided together.

"Court."

(4). "Court" means the High Court or the District Court, as the case may be :

(5). "Minor children" means, in the case of sons of native fathers, boys who have not completed the age of sixteen years, and, in the case of daughters of native

fathers, girls who have not completed the age of thirteen years. In other cases it means unmarried children who have not completed the age of eighteen years :

(6). "Incestuous adultery" means adultery committed by a husband

"Incestuous adultery." with a woman, with whom, if his wife were dead, he could not lawfully contract marriage by reason of her being within the prohibited degrees of consanguinity (whether natural or legal) or affinity :

(7). "Bigamy with adultery" means adultery

"Bigamy with adultery." with the same woman with whom the bigamy was committed :

(8). "Marriage with another woman" means marriage of any person, being married, to any other person, during the life of the former wife, whether the second marriage

"Marriage with another woman." shall have taken place within the dominions of Her Majesty or elsewhere :

"Desertion."

(9). "Desertion" implies an abandonment against the wish of the person charging it ; and

(10). "Property" includes, in the case of a wife, any property to which she is entitled for an estate in remainder or reversion or as a trustee, executrix or administratrix ;

and the date of the death of the testator or intestate shall be deemed to be the time at which any such wife becomes entitled as executrix or administratrix.

II.—Jurisdiction.

4. The jurisdiction now exercised by High Courts in respect of divorce

Matrimonial jurisdiction of High Courts to be exercised subject to this Act. Exception.

a mensâ et toro, and in all other causes, suits and matters matrimonial, shall be exercised by such Courts and by the District Courts subject to the provisions in this Act contained, and not otherwise : except so far as relates to the granting of marriage-licenses, which may be granted as if this Act had not been passed.

5. Any decrees or order of the late Supreme Court of Judicature at

Enforcement of decrees or orders heretofore made by Supreme or High Court.

Calcutta, Madras or Bombay sitting on the ecclesiastical side, or of any of the said High Courts sitting in the exercise of their matrimonial jurisdiction, respectively, in any cause or matter matrimonial, may be enforced and dealt with by the said High Courts, respectively, as hereinafter mentioned, in like manner as if such decree or order had been originally made under this Act by the Court so enforcing or dealing with the same.

6. All suits and proceedings in causes and matters matrimonial, which

Pending suits.

when this Act comes into operation are pending in any High Court, shall be dealt with and decided by such Court, so far as may be, as if they had been originally instituted therein under this Act.

7. Subject to the provisions contained in this Act, the High Courts and District Courts shall, in all suits and proceedings hereunder, act and give relief on principles and rules which, in the opinion of the said Courts, are as nearly as may be conformable to the principles and rules on which the Court for Divorce and Matrimonial Causes in England for the time being acts and gives relief.

NOTE.—The Indian Limitation Act does not apply to suits under this Act (*vide* Act XV of 1877, S. 1).

8. The High Court may, whenever it thinks fit, remove and try and determine as a Court of original jurisdiction any suit or proceeding instituted under this Act in the Court of any District Judge within the limits of its jurisdiction under this Act.

The High Court may also withdraw any such suit or proceeding, and transfer it for trial or disposal to the Court of any other such District Judge.

9. When any question of law or usage having the force of law arises at any point in the proceedings previous to the hearing of any suit under this Act by a District Court or at any subsequent stage of such suit, or in the execution of the decree therein or order thereon,

the Court may, either of its own motion or on the application of any of the parties, draw up a statement of the case and refer it, with the Court's own opinion thereon, to the decision of the High Court.

If the question has arisen previous to or in the hearing, the District Court may either stay such proceedings, or proceed in the case pending such reference, and pass a decree contingent upon the opinion of the High Court upon it.

If a decree or order has been made, its execution shall be stayed until the receipt of the order of the High Court upon such reference.

III.—*Dissolution of Marriage.*

10. Any husband may present a petition to the District Court or to the High Court, praying that his marriage may be dissolved on the ground that his wife has, since the solemnization thereof, been guilty of adultery.

Any wife may present a petition to the District Court or to the High Court, praying that her marriage may be dissolved on the ground that, since the solemnization thereof, her husband has exchanged his profession of Christianity for the profession of some other religion, and gone through a form of marriage with another woman ;

or has been guilty of incestuous adultery,

or of bigamy with adultery,

or of marriage with another woman with adultery,

or of rape, sodomy or bestiality,

or of adultery coupled with such cruelty as without adultery would have

entitled her to a divorce *a mensâ et toro*,

or of adultery coupled with desertion, without reasonable excuse, for two years or upwards.

Every such petition shall state, as distinctly as the nature of the case permits, the facts on which the claim to have such marriage dissolved is founded.

Contents of petition.

11. Upon any petition presented by a husband, the petitioner shall make the alleged adulterer a co-respondent to the said petition, unless he is excused from so doing on one of the following grounds, to be allowed by the Court:

Adulterer to be a co-respondent.

(1).—That the respondent is leading the life of a prostitute, and that the petitioner knows of no person with whom the adultery has been committed:

(2).—That the name of the alleged adulterer is unknown to the petitioner, although he has made due efforts to discover it:

(3).—That the alleged adulterer is dead.

12. Upon any such petition for the dissolution of a marriage, the Court shall satisfy itself, so far as it reasonably can, not only as to the facts alleged, but also whether or not the petitioner has been in any manner accessory to, or conniving at, the going through of the said form of marriage, or the adultery, or has condoned the same, and shall also inquire into any counter-charge which may be made against the petitioner.

Court to be satisfied of absence of collusion.

13. In case the Court, on the evidence in relation to any such petition, is satisfied that the petitioner's case has not been proved, or is not satisfied that the alleged adultery has been committed,

Dismissal of petition.

or finds that the petitioner has, during the marriage, been accessory to, or conniving at, the going through of the said form of marriage, or the adultery of the other party to the marriage, or has condoned the adultery complained of,

or that the petition is presented or prosecuted in collusion with either of the respondents,

then and in any of the said cases the Court shall dismiss the petition.

When a petition is dismissed by a District Court under this section, the petitioner may, nevertheless, present a similar petition to the High Court.

Power to Court to pronounce decree for dissolving marriage.

14. In case the Court is satisfied on the evidence that the case of the petitioner has been proved,

and does not find that the petitioner has been in any manner accessory to, or conniving at, the going through of the said form of marriage, or the adultery of the other party to the marriage, or has condoned the adultery complained of,

or that the petition is presented or prosecuted in collusion with either of the respondents,

the Court shall pronounce a decree declaring such marriage to be dissolved in the manner and subject to all the provisions and limitations in Sections sixteen and seventeen made and declared:

Provided that the Court shall not be bound to pronounce such decree if it finds that the petitioner has, during the marriage, been guilty of adultery,

or if the petitioner has, in the opinion of the Court, been guilty of unreasonable delay in presenting or prosecuting such petition,

or of cruelty towards the other party to the marriage,

or of having deserted or wilfully separated himself or herself from the other party before the adultery complained of, and without reasonable excuse,

or of such wilful neglect or misconduct of or towards the other party as has conduced to the adultery.

No adultery shall be deemed to have been condoned within the meaning of this Act, unless where conjugal cohabitation has been resumed or continued.

Condonation.

15. In any suit instituted for dissolution of marriage, if the respondent opposes the relief sought on the ground, in case of such a suit instituted by a husband, of his adultery, cruelty, or desertion without reasonable excuse, or, in case of such a suit instituted by a wife, on the ground of her adultery and cruelty, the Court may in such suit give to the respondent, on his or her application, the same relief to which he or she would have been entitled in case he or she had presented a petition seeking such relief, and the respondent shall be competent to give evidence of or relating to such cruelty or desertion.

16. Every decree for a dissolution of marriage made by a High Court, not being a confirmation of a decree of a District Court, shall, in the first instance, be a decree *nisi*, not to be made absolute till after the expiration of such time, not less than six months from the pronouncing thereof, as the High Court by general or special order from time to time directs.

During that period any person shall be at liberty, in such manner as the High Court by general or special order from time to time directs, to show cause why the said decree should not be made absolute by reason of the same having been obtained by collusion or by reason of material facts not being brought before the Court.

Collusion.

On cause being shown, the Court shall deal with the case by making the decree absolute, or by reversing the decree *nisi*, or by requiring further inquiry, or otherwise as justice may demand.

The High Court may order the costs of Counsel and witnesses, and otherwise arising from such cause being shown, to be paid by the parties or such one or more of them as it thinks fit, including a wife if she have separate property.

Whenever a decree *nisi* has been made, and the petitioner fails within a reasonable time to move to have such decree made absolute, the High Court may dismiss the suit.

Confirmation of decree
for dissolution by District
Judge.

17. Every decree for a dissolution of marriage by a District Judge shall be subject to confirmation by the High Court.

Cases for confirmation of a decree for dissolution of marriage shall be heard (where the number of Judges of the High Court is three or upwards) by a Court composed of three such Judges, and in case of difference the opinion of the majority shall prevail, or (where the number of the Judges of the High Court is two) by a Court composed of such two Judges, and in case of difference the opinion of the senior Judge shall prevail.

The High Court, if it think further enquiry or additional evidence to be necessary, may direct such enquiry to be made, or such evidence to be taken.

The result of such enquiry and the additional evidence shall be certified to the High Court by the District Judge, and the High Court shall thereupon make an order confirming the decree for dissolution of marriage, or such other order as to the Court seems fit.

Provided that no decree shall be confirmed under this section till after the expiration of such time, not less than six months from the pronouncing thereof, as the High Court by general or special order from time to time directs.

During the progress of the suit in the Court of the District Judge, any person suspecting that any parties to the suit are or have been acting in collusion for the purpose of obtaining a divorce, shall be at liberty, in such manner as the High Court by general or special order from time to time directs, to apply to the High Court to remove the suit under Section eight, and the High Court shall thereupon, if it think fit, remove such suit and try and determine the same as a Court of original jurisdiction, and the provisions contained in Section sixteen shall apply to every suit so removed: or it may direct the District Judge to take such steps in respect of the alleged collusion as may be necessary to enable him to make a decree in accordance with the justice of the case.

IV.—Nullity of Marriage.

18. Any husband or wife may present a petition to the District Court or to the High Court, praying that his or her marriage may be declared null and void.

Petition for decree of
nullity.

Grounds of decree.

19. Such decree may be made on any of the following grounds:—

(1).—That the respondent was impotent at the time of the marriage and at the time of the institution of the suit;

(2).—That the parties are within the prohibited degrees of consanguinity (whether natural or legal) or affinity;

(3).—That either party was a lunatic or idiot at the time of the marriage;

(4).—That the former husband or wife of either party was living at the time of the marriage, and the marriage with such former husband or wife was then in force.

Nothing in this section shall affect the jurisdiction of the High Court to make decrees of nullity of marriage on the ground that the consent of either party was obtained by force or fraud.

20. Every decree of nullity of marriage made by a District Judge shall be subject to confirmation by the High Court, and the provisions of Section seventeen, clauses one, two, three and four, shall *mutatis mutandis* apply to such decrees.

21. Where a marriage is annulled on the ground that a former husband or wife was living, and it is adjudged that the subsequent marriage was contracted in good faith and with the full belief of the parties that the former husband or wife was dead, or when a marriage is annulled on the ground of insanity, children begotten before the decree is made shall be specified in the decree, and shall be entitled to succeed, in the same manner as legitimate children, to the estate of the parent who at the time of the marriage was competent to contract.

V.—Judicial Separation.

22. No decree shall hereafter be made for a divorce *a mensâ et toro*, but the husband or wife may obtain a decree of judicial separation, on the ground of adultery, or cruelty, or desertion without reasonable excuse for two years or upwards, and such decree shall have the effect of a divorce *a mensâ et toro* under the existing law, and such other legal effect as hereinafter mentioned.

23. Application for judicial separation on any one of the grounds aforesaid, may be made by either husband or wife by petition to the District Court or the High Court; and the Court, on being satisfied of the truth of the statements made in such petition, and that there is no legal ground why the application should not be granted, may decree judicial separation accordingly.

24. In every case of a judicial separation under this Act, the wife shall, from the date of the sentence, and whilst the separation continues, be considered as unmarried with respect to property of every description which she may acquire, or which may come to or devolve upon her.

Such property may be disposed of by her in all respects as an unmarried woman, and on her decease the same shall, in case she dies intestate, go as the same would have gone if her husband had been then dead:

Provided that, if any such wife again cohabits with her husband, all such property as she may be entitled to when such cohabitation takes place shall be held to her separate use, subject, however, to any agreement in writing made between herself and her husband whilst separate.

25. In every case of a judicial separation under this Act, the wife shall, whilst so separated, be considered as an unmarried woman for the purposes of contract, and wrongs and injuries, and suing and being sued in any civil proceeding; and her husband shall not be liable in respect of any contract, act or costs entered into, done, omitted or incurred by her during the separation:

Provided that where, upon any such judicial separation, alimony has been decreed or ordered to be paid to the wife, and the same is not duly paid by the husband, he shall be liable for necessaries supplied for her use.

Provided also that nothing shall prevent the wife from joining, at any time during such separation, in the exercise of any joint power given to herself and her husband.

Reversal of Decree of Separation.

26. Any husband or wife, upon the application of whose wife or husband, as the case may be, a decree of judicial separation has been pronounced, may at any time thereafter present a petition to the Court by which the decree was pronounced, praying for a reversal of such decree on the ground that it was obtained in his or her absence, and that there was reasonable excuse for the alleged desertion, where desertion was the ground of such decree.

The Court may, on being satisfied of the truth of the allegations of such petition, reverse the decree accordingly; but such reversal shall not prejudice or affect the rights or remedies which any other person would have had, in case it had not been decreed, in respect of any debts, contracts or acts of the wife incurred, entered into, or done between the time of the sentence of separation and of the reversal thereof.

VI.—Protection Orders.

27. Any wife to whom the fourth section of the Indian Succession Act, 1865, does not apply, may, when deserted by her husband, present a petition to the District Court or the High Court, at any time after such desertion, for an order to protect any property which she may have acquired or may acquire, and any property of which she may have become possessed or may become possessed after such desertion, against her husband or his creditors, or any person claiming under him.

28. The Court, if satisfied of the fact of such desertion, and that the same was without reasonable excuse, and that the wife is maintaining herself by her own industry or property, may make and give to the wife an order protecting her earnings and other property from her husband and all creditors and persons claiming under him. Every such order shall state the time at which the desertion commenced, and shall, as regards all persons dealing with the wife in reliance thereon, be conclusive as to such time.

29. The husband, or any creditor of, or person claiming under him, may apply to the Court by which such order was made for the discharge or variation thereof, and the Court, if the desertion has ceased, or if for any other reason it think fit so to do, may discharge or vary the order accordingly.

30. If the husband or any creditor of, or person claiming under, the husband seizes or continues to hold any property of the wife after notice of any such order, he shall be liable, at the suit of the wife (which she is hereby empowered to bring), to return or deliver to her the specific property, and also to pay her a sum equal to double its value.

31. So long as any such order of protection remains in force, the wife shall be and be deemed to have been, during such desertion of her, in the like position in all respects, with regard to property and contracts and suing and being sued, as she would be under this Act if she obtained a decree of judicial separation.

VII.—*Restitution of Conjugal Rights.*

32. When either the husband or the wife has, without reasonable excuse, withdrawn from the society of the other, either wife or husband may apply, by petition, to the District Court or the High Court for restitution of conjugal rights, and the Court, on being satisfied of the truth of the statement made in such petition, and that there is no legal ground why the application should not be granted, may decree restitution of conjugal rights accordingly.

33. Nothing shall be pleaded in answer to a petition for restitution of conjugal rights, which would not be ground for a suit for judicial separation or for a decree of nullity of marriage.

VIII.—*Damages and Costs.*

34. Any husband may, either in a petition for dissolution of marriage or for judicial separation, or in a petition to the District Court or the High Court limited to such object only, claim damages from any person on the ground of his having committed adultery with the wife of such petitioner.

Such petition shall be served on the alleged adulterer and the wife, unless the Court dispenses with such service, or directs some other service to be substituted.

The damages to be recovered on any such petition shall be ascertained by the said Court, although the respondents or either of them may not appear.

After the decision has been given, the Court may direct in what manner such damages shall be paid or applied.

35. Whenever in any petition presented by a husband the alleged adulterer has been made a co-respondent, and the adultery has been established, the Court may order the co-respondent to pay the whole or any part of the costs of the proceedings:

Provided that the co-respondent shall not be ordered to pay the petitioner's costs,

(1) if the respondent was at the time of the adultery living apart from her husband and leading the life of a prostitute, or

(2) if the co-respondent had not at the time of the adultery reason to believe the respondent to be a married woman.

Whenever any application is made under Section seventeen, the Court if it thinks that the applicant had no grounds or no sufficient grounds for intervening, may order him to pay the whole or any part of the costs occasioned by the application.

IX.—*Alimony.*

36. In any suit under this Act, whether it be instituted by a husband or a wife, and whether or not she has obtained an order of protection, the wife may present a petition for alimony pending the suit.

Such petition shall be served on the husband ; and the Court, on being satisfied of the truth of the statements therein contained, may make such order on the husband for payment to the wife of alimony pending the suit as it may deem just.

Provided that alimony pending the suit shall in no case exceed one-fifth of the husband's average net income for the three years next preceding the date of the order, and shall continue, in case of a decree for dissolution of marriage or of nullity of marriage, until the decree is made absolute or is confirmed, as the case may be.

37. The High Court may, if it think fit, on any decree absolute declaring a marriage to be dissolved, or on any decree of judicial separation obtained by the wife,

and the District Judge may, if he thinks fit, on the confirmation of any decree of his declaring a marriage to be dissolved, or of any decree of judicial separation obtained by the wife,

order that the husband shall, to the satisfaction of the Court, secure to the wife such gross sum of money, or such annual sum of money for any term not exceeding her own life, as having regard to her fortune (if any), to the ability of the husband, and to the conduct of the parties, it thinks reasonable; and for that purpose may cause a proper instrument to be executed by all necessary parties.

In every such case the Court may make an order on the husband for payment to the wife of such monthly or weekly sums for her maintenance and support as the Court may think reasonable :

Provided that if the husband afterwards from any cause becomes unable to make such payments, it shall be lawful for the Court to discharge or modify the order, or temporarily to suspend the same as to the whole or any of the money so ordered to be paid, and again to revive the same order wholly or in part, as to the Court seems fit.

38. In all cases in which the Court makes any decree or order for alimony, it may direct the same to be paid either to the wife herself, or to any trustee on her behalf to be approved by the Court, and may impose any terms or restrictions which to the Court seem expedient, and may from time to time appoint a new trustee, if it appears to the Court expedient so to do.

X.—Settlements.

39. Whenever the Court pronounces a decree of dissolution of marriage or judicial separation for adultery of the wife, if it is made to appear to the Court that the wife is entitled to any property, the Court may, if it think fit, order such settlement as it thinks reasonable to be made of such property or any part thereof, for the benefit of the husband, or of the children of the marriage, or both.

Any instrument executed pursuant to any order of the Court at the time of or after the pronouncing of a decree of dissolution of marriage or judicial separation, shall be deemed valid notwithstanding the existence of the disability of coverture at the time of the execution thereof.

The Court may direct that the whole or any part of the damages recovered under Section thirty-four shall be settled for the benefit of the children of the marriage, or as a provision for the maintenance of the wife.

Settlement of damages.
Inquiry into existence of ante-nuptial or post-nuptial settlements.

40. The High Court, after a decree absolute for dissolution of marriage, or a decree of nullity of marriage,

and the District Court, after its decree for dissolution of marriage or of nullity of marriage has been confirmed,

may inquire into the existence of ante-nuptial or post-nuptial settlements made on the parties whose marriage is the subject of the decree, and may make such orders, with reference to the application of the whole or a portion of the property settled, whether for the benefit of the husband or the wife, or of the children (if any) of the marriage, or of both children and parents, as to the Court seems fit :

Provided that the Court shall not make any order for the benefit of the parents or either of them at the expense of the children.

XI.—Custody of Children.

41. In any suit for obtaining a judicial separation the Court may from time to time, before making its decree, make such interim-orders, and may make such provision in the decree, as it deems proper, with respect to the custody, maintenance and education of the minor children, the marriage of whose parents is the subject of such suit, and may, if it think fit, direct proceedings to be taken for placing such children under the protection of the said Court.

42. The Court, after decree of judicial separation, may upon application (by petition) for this purpose make, from time to time, all such orders and provisions, with respect to the custody, maintenance and education of the minor children, the marriage of whose parents is the subject of the decree, or for placing such children under the protection of the said Court, as might have been made by such decree or by interim-orders in case the proceedings for obtaining such decree were still pending.

43. In any suit for obtaining a dissolution of marriage or a decree of nullity of marriage instituted in, or removed to, a High Court, the Court may from time to time, before making its decree absolute or its decree (as the case may be), make such interim orders, and may make such provision in the decree absolute or decree,

and in any such suit instituted in a District Court, the Court may from time to time, before its decree is confirmed, make such interim-orders, and may make such provision on such confirmation,

as the High Court or District Court (as the case may be) deems proper with respect to the custody, maintenance and education of the minor children, the marriage of whose parents is the subject of the suit ;

and may, if it think fit, direct proceedings to be taken for placing such children under the protection of the Court.

44. The High Court after a decree absolute for dissolution of marriage or a decree of nullity of marriage,
Power to make such orders after decree or confirmation.

and the District Court after a decree for dissolution of marriage or of nullity of marriage has been confirmed,

may, upon application by petition for the purpose, make from time to time all such orders and provisions, with respect to the custody, maintenance and education of the minor children, the marriage of whose parents was the subject of the decree, or for placing such children under the protection of the said Court, as might have been made by such decree absolute or decree (as the case may be), or by such interim-orders as aforesaid.

XII.—*Procedure.*

45. Subject to the provisions herein contained, all proceedings under this Act between party and party shall be regulated by the Code of Civil Procedure.
Code of Civil Procedure to apply.

46. The forms set forth in the schedule to this Act, with such variation as the circumstances of each case require, may be used for the respective purposes mentioned in such schedule.
Forms of petitions and statements.

47. Every petition under this Act for a decree of dissolution of marriage, or of nullity of marriage, or of judicial separation, shall state that there is not any collusion or connivance between the petitioner and the other party to the marriage.
Petition to state absence of collusion.

The statements contained in every petition under this Act shall be verified by the petitioner or some other competent person in manner required by law for the verification of complaints, and may at the hearing be referred to as evidence.
Statements to be verified.

NOTE.—The portion of this section which relates to stamps on the petition has been repealed by Act VII of 1870.

48. When the husband or wife is a lunatic or idiot, any suit under this Act (other than a suit for restitution of conjugal rights) may be brought on his or her behalf by the committee or other person entitled to his or her custody.
Suits on behalf of lunatics.

49. Where the petitioner is a minor, he or she shall sue by his or her next friend to be approved by the Court; and no petition presented by a minor under this Act shall be filed until the next friend has undertaken in writing to be answerable for costs.
Suits by minors.

Such undertaking shall be filed in Court, and the next friend shall thereupon be liable in the same manner and to the same extent as if he were a plaintiff in an ordinary suit.

NOTE.—The portion of this section which relates to stamps is repealed by Act VII of 1870.

50. Every petition under this Act shall be served on the party to be affected thereby, either within or without British India, in such manner as the High Court by general or special order from time to time directs :
Service of petition.

Provided that the Court may dispense with such service altogether in case it seems necessary or expedient so to do.

51. The witnesses in all proceedings before the Court, where their attendance can be had, shall be examined orally, and any party may offer himself or herself as a witness, and shall be examined and may be cross-examined and re-examined, like any other witness :

Provided that the parties shall be at liberty to verify their respective cases in whole or in part by affidavit, but so that the deponent in every such affidavit shall, on the application of the opposite party, or by direction of the Court, be subject to be cross-examined by or on behalf of the opposite party orally, and after such cross-examination may be re-examined orally as afore-said by or on behalf of the party by whom such affidavit was filed.

52. On any petition presented by a wife, praying that her marriage may be dissolved by reason of her husband having been guilty of adultery coupled with cruelty, or of adultery coupled with desertion without reasonable excuse, the husband and wife respectively shall be competent and compellable to give evidence of or relating to such cruelty or desertion.

53. The whole or any part of any proceeding under this Act may be heard, if the Court thinks fit, with closed doors.

54. The Court may from time to time adjourn the hearing of any petition under this Act, and may require further evidence thereon if it sees fit so to do.

55. All decrees and orders made by the Court in any suit or proceeding under this Act shall be enforced and may be appealed from, in the like manner as the decrees and orders of the Court made in the exercise of its original civil jurisdiction are enforced and may be appealed from, under the laws, rules and orders for the time being in force :

Provided that there shall be no appeal from a decree of a District Judge for dissolution of marriage or of nullity of marriage ; nor from the order of the High Court confirming or refusing to confirm such decree :

Provided also that there shall be no appeal on the subject of costs only.

56. Any person may appeal to Her Majesty in Council from any decree (other than a decree *nisi*) or order under this Act of a High Court made on appeal or otherwise,

and from any decree (other than a decree *nisi*) or order made in the exercise of original jurisdiction by Judges of a High Court or of any Division Court from which an appeal shall not lie to the High Court,

when the High Court declares that the case is a fit one for appeal to Her Majesty in Council.

XIII.—*Re-marriage.*

57. When six months after the date of an order of a High Court confirming the decree for a dissolution of marriage by a District Judge have expired;

or when six months after the date of any decree of a High Court dissolving a marriage have expired, and no appeal has been presented against such decree to the High Court in its appellate jurisdiction,

or when any such appeal has been dismissed,

or when in the result of any such appeal any marriage is declared to be dissolved,

but not sooner, it shall be lawful for the respective parties to the marriage to marry again, as if the prior marriage had been dissolved by death:

Provided that no appeal to Her Majesty in Council has been presented against any such order or decree.

When such appeal has been dismissed, or when in the result thereof the marriage is declared to be dissolved, but not sooner, it shall be lawful for the respective parties to the marriage to marry again as if the prior marriage had been dissolved by death.

58. No clergyman in Holy Orders of the Church of England shall be

English clergyman not compelled to solemnize marriages of persons divorced for adultery.

compelled to solemnize the marriage of any person whose former marriage has been dissolved on the ground of his or her adultery, or shall be liable to any suit, penalty or censure for solemnizing or refusing to solemnize the marriage of any such person.

59. When any minister of any church or chapel of the said church

English minister refusing to perform ceremony to permit use of his church.

refuses to perform such marriage-service between any persons who but for such refusal would be entitled to have the same service performed in such church or chapel, such minister shall permit any other minister in Holy Orders of the said church, entitled to officiate within the diocese in which such church or chapel is situate, to perform such marriage service in such church or chapel.

NOTE.—The words in the above two sections which have been repealed by Act XII of 1873 are omitted.

XIV.—Miscellaneous.

60. Every decree for judicial separation or order to protect property,

Decree for separation or protection-order to be valid as to persons dealing with wife before reversal.

obtained by a wife under this Act shall, until reversed or discharged, be deemed valid, so far as necessary, for the protection of any person dealing with the wife.

No reversal, discharge or variation of such decree or order shall affect any rights or remedies which any person would otherwise have had in respect of any contracts or acts of the wife entered into or done between the dates of such decree or order, and of the reversal, discharge or variation thereof.

All persons who in

Indemnity of persons making payment to wife without notice of reversal of decree or protection-order.

reliance on any such decree or order make any payment to, or permit any transfer or act to be made or done by, the wife who has obtained the same, shall, notwithstanding such decree or order may then have been reversed, discharged or varied, or the separation of the wife from her husband may have ceased or at some time since the making of the decree or order been discontinued,

be protected and indemnified as if, at the time of such payment, transfer or other act, such decree or order were valid and still subsisting without variation, and the separation had not ceased or been discontinued,

unless, at the time of the payment, transfer or other act, such persons had notice of the reversal, discharge or variation of the decree or order or of the cessation or discontinuance of the separation.

61. After this Act comes into operation, no person competent to present Bar of suit for criminal conversation. a petition under Sections two and ten shall maintain a suit for criminal conversation with his wife.

62. The High Court shall make such rules under this Act as it may from time to time consider expedient, and may from time to time alter and add to the same:
Power to make rules.

Provided that such rules, alterations and additions are consistent with the provisions of this Act and the Code of Civil Procedure.

All such rules, alterations and additions shall be published in the local official Gazette.

SCHEDULE OF FORMS.

No. 1.—PETITION by husband for a dissolution of marriage, with damages against co-respondent by reason of adultery.

(See Sections 10 and 34).

In the (High) Court of
To the Hon'ble Mr. Justice

[or To the Judge of

The

day of

18 .

The petition of A. B. of

SHEWETH,

1. That your petitioner was on the day of , one thousand eight hundred and , lawfully married to C. B., then C. D., spinster at (a)

2. That from his said marriage, your petitioner lived and cohabited with his said wife at and at , in , and lastly at , in , and that your petitioner and his said wife have had issue of their said marriage, five children, of whom two sons only survive, aged respectively twelve and fourteen years.

3. That during the three years immediately preceeding the day of one thousand eight hundred and , X. Y. was constantly, with few exceptions, residing in the house of your petitioner at aforesaid, and that on divers occasions during the said period, the dates of which are unknown to your petitioner, the said C. B. in your petitioner's said house committed adultery with the said X. Y.

4. That no collusion or connivance exists between me and my said wife for the purpose of obtaining a dissolution of our said marriage or for any other purpose.

Your petitioner, therefore, prays that this (Hon'ble) Court will decree a dissolution of the said marriage, and that the said X. Y. do pay the sum of rupees 5,000 as damages by reason of his having committed adultery with your petitioner's said wife, such damages to be paid to your petitioner, or otherwise paid or applied as to this (Hon'ble) Court seems fit.

Signed A. B. (b)

Form of Verification.

I, A. B. the petitioner named in the above petition, do declare that what is stated therein is true to the best of my information and belief.

No. 2.—Respondent's statement in answer to No. 1.

In the Court of the day of

Between A. B., petitioner, C. B., respondent, and X. Y., co-respondent.

C. B., the respondent, by D. E. her attorney [or vakil], in answer to the petition of A. B. denies that she has on divers or any occasions committed adultery with X. Y., as alleged in the third paragraph of the said petition.

Wherefore the respondent prays that this (Hon'ble) Court will reject the said petition.

(Signed) C. B.

(a). If the marriage was solemnized out of India, the adultery must be shown to have been committed in India.

(b). The petition must be signed by the petitioners.

No. 3—Co-respondent's statement in answer to No. 1.

In the (High) Court of . The day of
Between A. B., petitioner, C. B., respondent, and X Y., co-respondent.

X. Y., the co-respondent, in answer to the petition filed in this cause, saith that he denies that he committed adultery with the said C. B., as alleged in the said petition.

Wherefore the said X. Y., prays that this (Hon'ble) Court will reject the prayer of the said petitioner and order him to pay the costs of and incident to the said petition.

(Signed) X.Y.

No. 4.—PETITION for Decree of Nullity of Marriage.
(See Section 18).

•In the (High) Court of

To the Hon'ble Mr. Justice [or To the Judge of The day of , 18

The petition of *A. B.* falsely called *A. D.*

SHEWETH,

1. That on the _____ day of _____, one thousand eight hundred and _____, your petitioner, then a spiufter, eighteen years of age, was married in fact, though not in law, to C. D., then a bachelor. of about thirty years of age at [some place in India].

2. That from the said day of one thousand eight hundred and until the month of , one thousand eight hundred and , your petitioner lived and cohabited with the said C. D. at divers places, and particularly at aforesaid.

3. That the said *C. D.* has never consummated the said pretended marriage by carnal copulation.

4. That at the time of the celebration of your petitioner's said pretended marriage, the said *C. D.* was by reason of his impotency or malformation, legally incompetent to enter into the contract of marriage.

5. That there is no collusion or connivance between her and the said C. D. with respect to the subject of this suit.

Your petitioner therefore prays that this (Hon'ble) Court will declare that the said marriage is null and void.

(Signed) **A. B.**

Form of Verification : See No. 1.

No. 5.—PETITION by wife for judicial separation on the ground of husband's adultery.
(See Section 22).

In the (High) Court of
To the Hon'ble Mr. Justice [or To the Judge of The day of , 18 ,

The petition of *C. B.* of _____, the wife of *A. B.*

SHEWETH,

1. That on the _____ day of _____, one thousand eight hundred and _____, your petitioner, then *C. D.*, was lawfully married to *A. B.* at the church of _____ in the _____

2. That after her said marriage, your petitioner cohabited with the said A. B. at and at _____, and that your petitioner and her said husband have issue living of their said marriage, three children, to wit, &c. &c. (a).

3. That on divers occasions in or about the months of *August, September and October* one thousand eight hundred and _____, the said *A. B.*, at _____, aforesaid, committed adultery with *E. F.*, who was then living in the service of the said *A. B.* and your petitioner at their said residence _____ aforesaid.

4. That on divers occasions in the months of *October, November* and *December*, one thousand eight hundred and _____, the said *A. B.* at _____, aforesaid, committed adultery with *G. H.*, who was then living in the service of the said *A. B.* and your petitioner at their said residence _____ aforesaid.

5. That no collusion or connivance exists between your petitioner and the said A. B. with respect to the subject of the present suit.

Your petitioner therefore prays that this (Hon'ble) Court will decree a judicial separation to your petitioner from her said husband by reason of his aforesaid adultery.

(Signed) C. D. (b).

From of Verification ; See No. 1.

(a).—State the respective ages of the children.

(b).—The petition must be signed by the petitioner.

No. 6.—Statement in answer to No. 5.

In the (High) Court of

B. against B.

The day of

The respondent, A. B., by W. Y., his attorney [or vakil] saith,—

1. That he denies that he committed adultery with E. F. as in the third paragraph of the petition alleged.
2. That the petitioner condoned the said adultery with E. F., if any.
3. That he denies that he committed adultery with G. H., as in the fourth paragraph of the petition alleged.
4. That the petitioner condoned the said adultery with G. H., if any.

Wherefore this respondent prays that this (Hon'ble) Court will reject the prayer of the said petition.

(Signed) A. B.

No. 7.—Statement in reply to No. 6.

In the (High) Court of

B. against B.

The day of

The petitioner, C. B., by her attorney [or vakil], says—

1. That she denies that she condoned the said adultery of the respondent with E. F. as in the second paragraph of the statement in answer alleged.
2. That even if she has condoned the said adultery, the same has been revived by the subsequent adultery of the respondent with G. H. as set forth in the forth paragraph of the petition.

(Signed) C. B.

No. 8. —PETITION for a Judicial separation by reason of cruelty. (See Section 22).

In the (High) Court of

To the Hon'ble Mr. Justice [or To the Judge of]

The day of 18 .

The petition of A. B. (wife of C. B.) of

SHREUTH,

1. That on the day of one thousand eight hundred and , your petitioner then A. D. spinster, was lawfully married to C. B. at
2. That from her said marriage, your petitioner lived and cohabited with her said husband at until the day of , one thousand eight hundred and , when your petitioner separated from her said husband as hereinafter more particularly mentioned, and that your petitioner and her said husband have had no issue of their said marriage.
3. That from and shortly after your petitioner's said marriage, the said C. B. habitually conducted himself towards your petitioner with great harshness and cruelty, frequently abusing her in the coarsest and most insulting language, and beating her with his fists, with a cane, or with some other weapon.
4. That on an evening in or about the month of , one thousand eight hundred and , the said C. B., in the highway and opposite to the house in which your petitioner and the said C. B. were then residing at aforesaid, endeavoured to knock your petitioner down, and was only prevented from so doing by the interference of F. D., your petitioner's brother.
5. That subsequently on the same evening, the said C. B. in his said house at aforesaid, struck your petitioner with his clenched fist a violent blow on her face.
6. That on one Friday night in the month of , one thousand eight hundred and , the said C. B., in , without provocation, threw a knife at your petitioner, thereby inflicting a severe wound on her right hand.
7. That on the afternoon of the day of , one thousand eight hundred and , your petitioner, by reason of the great and continued cruelty practised towards her by her husband, with assistance withdrew from the house of her said husband to the house of her father at ; that from and after the said day of , one thousand eight hundred and your petitioner hath lived separate and apart from her said husband, and hath never returned to his house or to cohabitation with him.

8. That there is no collusion or connivance between your petitioner and her said husband with respect to the subject of the present suit.

Your petitioner, therefore, prays that this (Hon'ble) Court will decree a judicial separation between your petitioner and the said A. B. and also order that the said A. B. do pay the costs of and incident to these proceedings.

(Signed) A. B.

Form of Verification : See No. 1.

No. 9.—Statement in answer to No. 8.

In the (High) Court of

The day of

Between A. B., petitioner, and C. B., respondent.

A. B., the respondent, in answer to the petition filed in this cause, by W. J. his attorney [or vakil] saith that he denies that he has been guilty of cruelty towards the said A. B., as alleged in the said petition.

(Signed) A. B.

No. 10.—PETITION for reversal of decree of separation. (See Section 24).

In the (High) Court of

To the Hon'ble Mr. Justice [or To the Judge of]

The day of 18 .

The petition of A. B., of

SHWETH,

1. That your petitioner was on the day of lawfully married to

2. That on the day of , this (Hon'ble) Court at the petition of pronounced a decree affecting the petitioner to the effect following, to wit,—

[Here set out the decree.]

3. That such decree was obtained in the absence of your petitioner, who was then residing at

[State facts tending to show that the petitioner did not know of the proceedings; and further, that had he known he might have offered a sufficient defence.]

or

That there was reasonable ground for your petitioner leaving his said wife, for that his said wife

[Here state any legal grounds justifying the petitioner's separation from his wife.]

Your petitioner, therefore, prays that this (Hon'ble) Court will reverse the said decree.

(Signed) A. B.

Form of Verification : See No. 1.

No. 11.—PETITION for Protection order. (See Section 27).

In the (High) Court of

To the Hon'ble Mr. Justice [or To the Judge of]

The day of 18 .

The petition of C. B., of the wife of A. B.

SHWETH,

That on the day of she was lawfully married to A. B. at

That she lived and cohabited with the said A. B., for years at and also at and hath had children, issue of her said marriage of whom are now living with the applicant, and wholly dependent upon her earnings.

That on or about , the said A. B., without any reasonable cause, deserted the applicant and hath every since remained separate and apart from her.

That since the desertion of her said husband, the applicant hath maintained herself by her own industry [or on her own property, as the case may be], and hath thereby and otherwise certain property consisting of [here state generally the nature of the property.]

Wherefore she prays an order for the protection of her earnings and property acquired since the said day of , from the said A. B., and from all creditors and persons claiming under him.

(Signed) A. B.

No. 12.—PETITION for alimony pending the suit. (See Section 36).

In the (High) Court of

B. against B.

To the Hon'ble Mr. Justice

[or To the Judge of

The day of

18

The petition of C. B., the lawful wife of A. B.

SHEWETH,

1. That the said A. B. has for some years carried on the business of , at , and from such business derives the net annual income of from Rs. 4,000 to 5,000.

2. That the said A. B. is possessed of plate, furniture, linen and other effects at his said house aforesaid, all of which he acquired in right of your petitioner as his wife, or purchased with money he acquired through her, of the value of Rs. 10,000.

3. That the said A. B., is entitled, under the will of his father, subject to the life-interest of his mother therein, to property of the value of Rs. 5,000 or some other considerable amount (a).

Your petitioner, therefore, prays that this (Hon'ble) Court will decree such sum or sums of money by way of alimony, pending the suit, as to this (Hon'ble) Court may seem meet.

(Signed) C. B.

Form of Verification; See No. 1.

No. 13.—Statement in answer to No. 12.

In the (High) Court of

B. against B.

A. B. of , the above-named respondent, in answer to the petition for alimony, pending the suit, of C. B., says—

1. In answer to the first paragraph of the said petition, I say that I have for the last three years carried on the business of , at , and that, from such business, I have derived a net annual income of Rs. 900, but less than Rs. 1,000.

2. In answer to the second paragraph of the said petition, I say that I am possessed of plate, furniture, linen and other chattels and effects at my said house aforesaid, of the value of Rs. 7,000, but as I verily believe of no larger value. And I say that a portion of the said plate, furniture, and other chattels and effects of the value of Rs. 1,500, belonged to my said wife before our marriage, but the remaining portion thereof I have since purchased with my own money. And I say that, save as hereinbefore set forth, I am not possessed of the plate and other effects as alleged in the said paragraph in the said petition, and that I did not acquire the same as in the said petition also mentioned.

3. I admit that I am entitled under the will of my father, subject to the life-interest of my mother therein, to property of the value of Rs. 5,000, that is to say, I shall be entitled under my said father's will upon the death of my mother to a legacy of Rs. 7,000, out of which I shall have to pay to my father's executors the sum of Rs. 2,000 the amount of a debt owing by me to his estate, and upon which debt I am now paying interest at the rate of five per cent. per annum.

4. And, in further answer to the said petition, I say that I have no income whatever, except that derived from my aforesaid business, that such income, since my said wife left me which she did on the day of last, has been considerably diminished, and that such diminution is likely to continue. And I say that out of my said income, I have to pay the annual sum of Rs. 100 for such interest as aforesaid to my late father's executors, and also to support myself and my two eldest children.

5. And, in further answer to the said petition, I say that, when my wife left my dwelling house on the day of last, she took with her, and has ever since withheld and still withholds from me, plate, watches and other effects in the second paragraph of this my answer mentioned, of the value of, as I verily believe, Rs. 800 at the least; and I also say that, within five days of her departure from my house as aforesaid, my said wife received bills due to me from certain lodgers of mine, amounting in the aggregate to Rs. , and that she has ever since and still withholds from me the same sum.

(Signed) A. B.

(a). The petitioner should state her husband's income as accurately as possible.

No. 14.—*UNDERTAKING by minor's next friend to be answerable for respondent's costs.*

(See Section 49).

In the (High) Court of

I, the undersigned A. B., of _____, being the next friend of C. D., who is a minor, and who is desirous of filing a petition in this Court, under the Indian Divorce Act, against D. D. of _____, hereby undertake to be responsible for the costs of the said D. D. in such suit, and that, if the said C. D. fail to pay to the said D. D. when and in such manner as the Court shall order all such costs of such suit as the Court shall direct him or her to pay to the said D. D., I will forthwith pay the same to the proper officer of this Court.

Dated this _____ day of _____ 18 ____.

ACT No. V of 1869

(Passed on the 26th February 1869.)

An Act to consolidate and amend the Articles of War for the government of Her Majesty's Native Indian Forces.

Preamble.

Whereas it is expedient to consolidate and amend the Articles of War for the government of the Native Officers, Soldiers and other persons in Her Majesty's Indian Army; It is hereby enacted as follows:—

PART I.—PRELIMINARY.

(a).—*Short Title.*

This Act may be called "The Indian Articles of War."

(b).—*Commencement of Act.*

This Act shall come into operation on the first day of June 1869.

(c).—*Repeal of Enactments.*

*	*	*	*	*	*	*	*
*	*	*	*	*	*	*	*
*	*	*	*	*	*	*	*

References to any Act hereby repealed, or any Act passed subsequently thereto, shall be read as if made to this Act.

NOTE.—The first three paragraphs of this clause have been repealed by Act XIV of 1870.

(d).—*Application of Articles.*

The Articles contained in Part II of this Act shall apply to all—

Commissioned Officers,
 Sub-Assistant Surgeons,
 Hospital Assistants,
 Native Doctors,
 Warrant Officers,
 Non-Commissioned Officers,
 Hospital Attendants of any class,
 Trumpeters, Buglers, Drummers,
 Musicians,
 Soldiers,
 Unattested Recruits,
 Lascars, Mahouts, Drivers,

Farriers, Syces, Grass-cutters,
Artificers, Labourers,

Sutlers, Followers, whether public or private, and all other persons
attached to or serving with any portion of the said Army :

Proviso.

Provided that nothing in the said Part (other than Article 123) shall render any British-born subject of Her Majesty, or any legitimate Christian lineal descendant of such subject, whether in the paternal or maternal line, triable or punishable under the said Part, but all such persons belonging to Her Majesty's Indian Army shall be triable and punishable as if they belonged to Her Majesty's British Forces.

And that nothing in the said Part shall render any American or any Christian European not being British-born, or any Christian legitimate lineal descendant of such American or European, whether in the paternal or maternal line, triable by a Court Martial composed of Native commissioned officers ; but all such persons belonging to Her Majesty's Indian Army shall be triable by Courts Martial composed of European officers only. Save as aforesaid, such persons shall be subject to this Act as if they were Natives of British India.

(e).—Interpretation-clause.

In this Act, unless there be something repugnant in the subject or context—

“Army” means Her Majesty's Indian Army, and “service” means service in such Army :

“Commissioned Officer” includes all officers holding commissions in the Native ranks of the Army, whether they be of purely Native or of a mixed European and Native extraction :

“European Officer” includes all European officers holding commissions in such Army or in Her Majesty's British Army :

“Commanding Officer” or “Officer Commanding” means the European officer in actual command for the time being of any force, division, district, regiment, corps, detachment or dépôt, as the case may be :

“Judge Advocate” includes any European officer duly authorized to officiate as Judge Advocate :

“Court Martial” means a Court Martial held under this Act, and in Articles 67, 68, 69 and 123 shall include a Court Martial held under the Act for punishing mutiny and desertion, and for the better payment of the army and their quarters for the time being in force :

“Soldier” and “Soldiers” include non-commissioned officers and all armed persons doing duty in the ranks of the army :

“Attested” means attested under the Articles contained in Part II of this Act :

“Deserter” means a person subject to such Articles, who has deserted from the army :

“Government” means, in the case of the Madras Army, the Governor of Fort St. George in Council ; in the case of the Bombay Army, the Governor of Bombay in Council, and in the case of any other part of Her

Majesty's Indian Army, the Governor-General of India in Council ;

And the expressions "assault," "criminal force," "dishonestly," "extortion," "fraudulently," "grievous hurt," "hurt," "voluntarily causes hurt," "voluntarily causes grievous hurt," "reason to believe," "wrongful gain," and "wrongful loss," shall be severally taken to have the meanings assigned to them respectively in the Indian Penal Code, and quoted in Part I of the appendix to this Act.

(f).—*Saving of certain Regulations.*

Nothing in this Act affects any regulations by which the respective offices and powers of Cantonment Magistrates, Commissariat officers, officers in charge of the Police in Cantonments, and Superintendents of Military bazárs are defined and controlled, or by which Paucháyats are constituted and guided.

PART II.—THE ARTICLES OF WAR.

TITLE I.—ENLISTMENT, DISMISSAL, AND DISCHARGE.

CHAPTER I.—*Enlistment.*

Articles to be read to Recruits.

Article 1.—Every person prior to being enrolled in any regiment or corps shall have the 7th, 8th, 9th, 10th, 11th, 24th, 38th and 53rd of these Articles read and explained to him.

Affirmation.

When reported fit for duty, such declaration or charge as may be usual shall be made to him, by the officer commanding, in front of the regiment or corps, or of such portion thereof as shall be present; and the person shall then make the following affirmation :

"I , inhabitant of , son of , solemnly affirm in the presence of Almighty God that I will be faithful to Her Majesty the Queen, Her heirs and successors, and will go wherever I am ordered, by land or sea, and will obey all commands of the officers set over me, even to the peril of my life."

Attestation.

Article 2.—All persons of the following classes, hereafter enlisted or enrolled under these Articles, shall be attested according to the regulations of the Government to which they are respectively subject;—Sub-Assistant Surgeons, Hospital Assistants, Native Doctors, Warrant Officers of any department, Trumpeters, Buglers, Drummers, Musicians, Soldiers, Lascars, Mahouts, Drivers, Farriers, Syces and Grass-cutters.

Articles 3, 4, 5, 7 to 71 (both inclusive), 90 to 94 (both inclusive), 130 to 136 (both inclusive), 154, 167 and 176 shall be read to every person enlisted or enrolled under these Articles at the time of his attestation.

NOTE.—See Act V of 1875.

CHAPTER II.—*Dismissal and Discharge.*

Dismissal of Commissioned Officers.

Article 3.—A commissioned officer shall be liable to dismissal from the service by the sentence of a General Court Martial, or by order of the Governor-General of India in Council, or of the Commander-in-Chief of the person

dency to which he belongs, or, if the officer belongs to either of the presidencies of Fort St. George or Bombay, of the Governor in Council of such presidency.

Every commissioned officer dismissed under these Articles shall forfeit all claim to pension.

Dismissal of other Persons.

Article 4.—Any person subject to these Articles, other than a commissioned officer, shall be liable to dismissal from the service,

by the sentence of any Court Martial empowered to try him,

or by order of the Governor-General of India in Council, or of the Commander-in-Chief of the presidency to which he belongs,

or, if he belongs to either of the presidencies of Fort St. George and Bombay, by order of the Governor in Council,

or, if he belongs to a Force not attached to any such Presidency, by order of the officer commanding such Force.

Every such person so dismissed shall forfeit all claim to pension.

Attested person dismissed and re-enlisting.

Article 5.—Every attested person of or below the rank of non-commissioned officer who has been dismissed or discharged from the service, and who subsequently re-enters the service without at the time stating the fact of his dismissal or discharge, or showing his certificate of dismissal or discharge, may be dismissed the service by the officer commanding the regiment or corps with which he is serving.

Certificate to person dismissed.

Article 6.—Every attested person who is dismissed or discharged from the service, shall be furnished by his commanding officer with a certificate, in the English language and in the mother-tongue of such person (when his mother-tongue is not English), setting forth

- (a) the authority dismissing or discharging him,
- (b) the cause of his dismissal or discharge, and
- (c) the full period of his service in the army.

TITLE II.—MILITARY OFFENCES.

CHAPTER I.—*Crimes punishable with Death or Transportation.*

Mutiny and Sedition.

Article 7.—Any person subject to these Articles—

Who begins, excites, causes or joins in any mutiny or sedition in any regiment, corps, detachment, or guard ;

or who, being present at any mutiny or sedition, does not use his utmost endeavours to suppress the same,

or who, knowing or having reason to believe in the existence of any mutiny, or of any intention to mutiny, or of any conspiracy against the State,

does not, without delay, give information thereof to his commanding or other superior officer ;—or

Violence to superior.

Article 8.—Who uses or attempts to use criminal force to, or commits an assault on, his superior officer whether on or off duty, under any circumstances in which the superior officer is distinguishable as such in any manner ;—or

Disobedience.

Article 9.—Who disobeys the lawful command of his superior officer ;—or

Desertion.

Article 10.—Who deserts the service ;—or

Re-enlistment without having been discharged.

Article 11.—Who, without having first obtained a regular discharge from the regiment or corps to which he belongs, enlists, or enrolls himself in any other regiment or corps ;—or

Sentry sleeping on or quitting post in time of war.

Article 12.—Who, being a sentry in time of war or alarm, or over any State-prisoner, treasure, magazine or dockyard, sleeps upon his post, or quits it without being regularly relieved, or without leave ; or

Sentry plundering.

Article 13.—Who, being a sentry, or on guard, plunders or wilfully destroys or injures any property placed under his charge, or under charge of his guard ;—or

Abandoning garrison.

Article 14.—Who shamefully abandons or delivers up any garrison, fortress, post or guard committed to his charge, or which it is his duty to defend ;—or

Betraying watch-word.

Article 15.—Who treacherously makes known the watch-word to any person not entitled to receive it according to the rules and discipline of war ;—or

Corresponding with enemy.

Article 16.—Who directly or indirectly holds correspondence with or communicates intelligence to the enemy, or any person in arms against the State, or who coming to the knowledge of any such correspondence or communication, omits to discover it immediately to his commanding or other superior officer ;—or

Assisting enemy.

Article 17.—Who directly or indirectly assists or relieves with money, victuals or ammunition, or knowingly harbours or protects any enemy, or person in arms against the State ;—or

Releasing prisoners.

Article 18.—Who without proper authority, releases any State-prisoner, enemy, or person taken in arms against the State, placed under his charge, or who negligently suffers any such prisoner, enemy or person to escape ;—or

Misbehaviour in presence of enemy.

Article 19.—Who, in presence of an enemy, or of any persons in arms against whom it is his duty to act, shamefully casts away his arms or ammunition, or intentionally uses words or any other means to induce any

officer or soldier to abstain from acting against the enemy, or to discourage such officer or soldier from acting against the enemy, or who otherwise misbehaves;—

See king plunder during action.

Article 20.—Who, in time of action, without authority, leaves his commanding officer, or his post, or colours, or party to go in search of plunder ;—or

Quitting guard in time of war.

Article 21.—Who, in time of war, quits his guard, picquet, party or patrol, without being regularly relieved or without leave ;—or

Assaulting persons bringing provisions.

Article 22.—Who, in time of war or during any military operation, uses criminal force to, or commits an assault on, any person bringing provisions or other necessaries to the camp or quarters of any of Her Majesty's forces,

or forces a safeguard, or without authority breaks into any house or other place for plunder ; or plunders, injures or destroys any field, garden or other property of any kind ;—or

Causing false alarm in time of war.

Article 23.—Who, in time of war, or during any military operation, intentionally occasions a false alarm in action, camp, garrison or quarters, or spreads reports by words or by letters calculated to create alarm or despondency,

Punishment for the foregoing offences.

Article 24.—Shall, on conviction, suffer death, or transportation for life or for a term of not less than seven years,

or imprisonment (with or without hard labour, and with or without solitary confinement) for a term which may extend to fourteen years,

or such other punishment as a General Court Martial is, by these Articles, empowered to award.

Whenever any person is convicted under this section of an offence punishable with death, all his property, moveable and immoveable, shall be forfeited to Government.

CHAPTER II.—Crimes punishable otherwise than by death or Transportation.

Unbecoming behaviour.

Article 25.—Any officer, sub-assistant surgeon, hospital assistant, native doctor, or warrant officer,

who behaves in a manner unbecoming his position and character ;—and

Intoxication on duty.

Article 26.—Any person subject to these Articles,

who is in a state of intoxication when on or for any duty, or on parade, or on the line of march ;—or

Striking sentry.

Article 27.—Who strikes, or forces or attempts to force any sentry —or

Harbouring deserter.

Article 28.—Who knowingly harbours any deserter ; or who, knowing, or having reason to believe, that any other person has deserted, or that any deserter has been harboured by any other person, does not immediately give notice to his own or some other superior officer, or use his utmost endeavours to cause such deserter to be apprehended ;—or

Enlisting deserter.

Article 29.—Who knowing, or having reason to believe, that a person is a deserter enlists him ;—or

Absence without leave.

Article 30.—Who absents himself without leave, or, without sufficient cause, overstays leave granted to him ;—or

Failure to rejoin.

Article 31.—Who, being on leave of absence and having received information from proper authority that his regiment or corps has been ordered on service, fails, without sufficient cause, to rejoin without delay ;—or

Failure to attend parade.

Article 32.—Who, without sufficient cause, fails to appear at the time fixed at the parade or place appointed for exercise or duty ;—or

Quitting parade or division.

Article 33.—Who, when on parade, or on the line of march, without sufficient cause, or without leave from his superior officer, quits the parade or line of march ;—or

Quitting guard in time of peace.

Article 34.—Who, in time of peace, quits his guard, picquet, or patrol, without being regularly relieved, or without leave ;—or

Refusing to receive or releasing prisoners.

Article 35.—Who, being in command of a guard, picquet, or patrol, refuses to receive any prisoner duly committed to his charge, or without proper authority releases any prisoner, or negligently suffers any prisoner to escape ;—or

Leaving arrest.

Article 36.—Who, being under arrest, or in confinement, leaves his arrest or confinement before he is set at liberty by proper authority ;—or

Insubordination.

Article 37.—Who is grossly insubordinate or insolent to his superior officer in the execution of his office ;—or

Refusal to superintend military work.

Article 38.—Who refuses to superintend or assist in the making of any field-work, or other military work of any description, ordered to be made either in quarters or in the field ;—or

Impeding Provost Marshal.

Article 39.—Who impedes a provost marshal or an assistant provost marshal, or any person lawfully exercising authority, or refuses when called upon to assist such person when requiring aid in the execution of his duty ;—or

Striking subordinates.

Article 40.—Who strikes or otherwise ill-treats any soldier or other person attested under these Articles being his subordinate in rank or position ;—or

Extortion.

Article 41.—Who commits extortion ; or, without proper authority, exacts from any person carriage, portorage or provisions ;—or

House-breaking or plundering in time of peace.

Article 42.—Who, in time of peace, commits house-breaking for the purpose of plundering ; or plunders, destroys, or damages any field, garden, or other property ;—or

Neglecting to compensate person injured by subordinate.

Article 43.—Who, being in command of any post, or on the march, and receiving a complaint that any one under his command has beaten, or otherwise maltreated or oppressed any person, or has disturbed any fair or market, or committed any riot or trespass, fails to have due reparation made to the injured person, or to report the case to the proper authority ;—or

Defiling places of worship.

Article 44.—Who, by defiling any place of worship, or otherwise, intentionally insults the religion or wounds the religious feelings of any person ;—or

Taking bribes.

Article 45.—Who, directly or indirectly, requires, accepts, or obtains, or agrees to accept, or attempts to obtain, for himself or for any other person, any gratification as a motive or reward for procuring the enlistment or enrolment of any person, or leave of absence, promotion, or any other advantage or indulgence for any person in the service ;—or

Causing false alarm in time of peace.

Article 46.—Who, in time of peace, by any means whatever, intentionally occasions a false alarm in camp, garrison, or cantonment :—or

Making away with regimental necessaries.

Article 47.—Who designedly or through neglect kills, injures or loses his horse, or who dishonestly or fraudulently removes, conceals, or delivers to any person, or who designedly or through neglect injures or loses his arms, clothes, tools, musical or surgical instruments, equipments, ammunition, accoutrements, or regimental necessaries, or any such articles entrusted to him, or belonging to any other person ;

or who sells, pawns, destroys or defaces any medal or decoration granted to him by order of Her Majesty, or of the East India Company, or of the Governor-General of India in Council for service in the field, or for general good conduct ;—or

Attempting suicide.

Article 48.—Who attempts to commit suicide, and does any act towards the commission of such offence ;—and

Appearing armed in camp.

Article 49.—Any person subject to these Articles below the rank of warrant officer—

Who, when off duty, appears, without proper authority, in or about camp or cantonments, or in or about, or when going to, or returning from, any town or bazar, carrying a sword, bludgeon, or other offensive weapon;—or

Sentry sleeping on post in time of peace.

Article 50.—Who being a sentry, in time of peace, sleeps upon his post, or leaves it before being regularly relieved, or without leave;—or

Absence from camp.

Article 51.—Who, without proper authority, is found two miles or upwards from camp;—or

Absence from cantonment after tattoo.

Article 52.—Who, without proper authority, is absent from his cantonment or lines after tattoo, or from camp after retreat-beating;

Punishment for offences mentioned in Articles 25—52.

Article 53.—Shall, on conviction by any Court Martial competent to try him, be sentenced to such punishment, other than death or transportation, as such Court is, by these Articles, empowered to award.

CHAPTER III.—Crimes to be punished with dismissal from the service.

Embezzlement.

Article 54.—Any person subject to these Articles—

Who dishonestly misappropriates or converts to his own use any money, provisions, forage, arms, clothing, ammunition, tools, instruments, equipments, or military stores of any kind, the property of Government, entrusted to his charge on the public account, or for any military purpose,

or who dishonestly uses or disposes of such property in violation of any direction of a proper authority,

or who dishonestly receives or retains any such property, knowing or having reason to believe the same to have been dishonestly misappropriated or converted;—or

Destruction of Government property.

Article 55.—Who wilfully destroys or injures any property of Government entrusted to him on the public account, or for any military purpose;—or

Giving false evidence.

Article 56.—Who, having been duly sworn or affirmed before any Court Martial, or other military Court competent to administer an oath or affirmation, makes any statement which is false, and which he either knows or believes to be false, or does not believe to be true;—

Punishment for offences mentioned in Articles 54, 55, 56.

Article 57.—Shall, if convicted by a General Court Martial, be sentenced to be dismissed the service and to forfeit any arrears of pay and allowances due to him at the time of dismissal; and shall be punishable also with imprisonment (with or without hard labor, and with or without solitary confinement) for a term which may extend to three years; and shall, if convicted by a District or Garrison Court Martial, be liable to any or all of the penalties which such Court may inflict for disgraceful conduct.

CHAPTER IV.—Disgraceful Conduct.

Malingering.

Article 58.—Any person subject to these Articles—

Who malingers, or feigns, or produces disease or infirmity in himself, or intentionally delays his cure or aggravates his disease or infirmity;—or

Wilfully causing hurt.

Article 59.—Who, with intent to render himself or any other person unfit for service, voluntarily causes hurt or voluntarily causes grievous hurt to himself or any other person ;—or

Theft.

Article 60.—Who commits theft in respect of any property of Government, or of any officer or soldier, or of any other person in the service, or of any military mess or band, or of any person serving with or attached to the army, or who dishonestly receives or retains any such property, knowing or having reason to believe it to be stolen ;— or

Embezzlement of Government property not entrusted on public account.

Article 61.— Who dishonestly misappropriates or converts to his own use any property of Government entrusted to him for any purpose not provided for in Articles 54 and 55,

or who dishonestly receives or retains any such property knowing or having reason to believe it to have been dishonestly misappropriated or converted ;— or

Obtaining pension by false statement.

Article 62.—Who obtains or attempts to obtain for himself, or for any other person, any pension, allowance, or other advantage or privilege by a statement which is false, and which he knows or has reason to believe to be false, or does not know to be true, or by making or using a false entry in any book or record, or by making any document containing a false statement, or by omitting to make a true entry or document containing a true statement ;—or

Furnishing false returns.

Article 63.—Who knowingly furnishes a false return or report of the number or state of any men under his command or charge, or of any money, arms, ammunition, clothing, equipments stores or other property in his charge, whether belonging to such men or to Government, or to any person in or attached to the army, or who, through design or culpable neglect, omits or refuses to make or send any return or report of the matters aforesaid ;—or

Other fraudulent offences.

Article 64.—Who does any other thing with intent to defraud, or to cause wrongful gain to one person, or wrongful loss to another person ;—or

Cruelty or Indecency.

Article 65.—Who commits any other offence of a cruel, indecent, or unnatural kind, or attempts to commit any such offence and does any act towards its commission—

Penalties for offences specified in Articles 58—65.

Article 66.—May be tried for disgraceful conduct, and shall, on conviction by a General, District, or Garrison Court-Martial, be liable to any or all of the penalties awardable by such Court for disgraceful conduct.

*CHAPTER V.—Offences against Courts Martial.**Refusal to attend or be sworn.*

Article 67.—Any person subject to these Articles who, when duly summoned to attend as witness before a Court Martial, intentionally omits to attend, or refuses to be sworn or make affirmation, or to answer any question, or to produce or deliver up any book or document which he may have been duly warned and called upon to produce or deliver up, or prevaricates ;—or

Contempts.

Article 68.—Who intentionally offers any insult or causes any interruption or disturbance to, or uses any menacing or disrespectful word, sign or gesture, or is insubordinate or violent in the presence of a Court Martial while sitting ;—

Punishment for offences specified in Articles 67 and 68.

Article 69.—Shall, on conviction by the same or any other Court Martial which is competent to try the offender, be liable to such punishments as the convicting Court is, by these Articles, empowered to award.

CHAPTER VI.—*Unspecified Offences.*

Article 70.—All offences not punishable with death, all neglects to obey any garrison or other orders, and all acts and omissions, of which any person subject to these Articles is accused, shall, though not specified in these Articles, if they be prejudicial to good order and military discipline, be taken cognizance of and punished according to the nature and degree of the offence, act or omission by any Court Martial empowered to try the person guilty of such offence, act or omission.

Abetment.

Article 71.—Every person subject to these Articles who abets, within the meaning of the Indian Penal Code, Sections 107 and 108, any of the offences specified in Articles 7, 8, 10, 13, 14, 18 and 19, may be punished with the punishment hereinbefore provided for such offence.

Every such person who abets, within the meaning of the Indian Penal Code, Sections 107 and 108, any other offence punishable under this Act shall be punished,

with imprisonment of any description provided by this Act for the offences so abetted for a term which may extend to one-half of the longest term of such imprisonment,

or with one-half of any other penalty awardable by the Court by which he is convicted,

or, if the offence is punishable with death or transportation for life, with transportation for a term not less than seven years, or with imprisonment (with or without hard labor, and with or without solitary confinement) for a term which may extend to ten years.

The said sections of the Indian Penal Code are set forth in Part II of the appendix to this Act.

TITLE III.—**JURISDICTION.****CHAPTER I.**—*Courts Martial.**Kinds of Courts Martial.*

Article 72.—For the purposes of these Articles, there shall be eight kinds of Courts Martial (that is to say),—

- (1).—General Courts Martial.
- (2).—Detachment General Courts Martial.
- (3).—District Courts Martial.
- (4).—Garrison Courts Martial.
- (5).—Regimental Courts Martial.
- (6).—Regimental Detachment Courts Martial.
- (7).—Detachment Courts Martial, and
- (8).—Summary Courts Martial.

(1).—*General Courts Martial.**Appointment of General Courts Martial.*

Article 73.—A General Court Martial may be appointed—

(a).—By the Commander-in-Chief of a presidency :

(b).—By any officer authorized to appoint General Courts Martial by warrant of the Commander-in-Chief of a presidency .

(c).—By any officer in actual command of Native troops who is authorized to appoint General Courts Martial by order of the Governor-General of India in Council, the Governor of Fort St. George in Council, or the Governor of Bombay in Council :

(d).—By any officer commanding Native troops not attached to the forces of a presidency who is authorized to appoint General Courts Martial by warrant which the Governor-General of India in Council has empowered the Commander-in-Chief in India to issue.

Composition of such Court.

Article 74 —Except as hereinafter provided, every General Court Martial shall, if held in British India, consist of not less than nine commissioned officers, but may, if held out of British India, consist of seven commissioned officers, if a greater number cannot be conveniently assembled.

Composition of such Court appointed under Orders in Council.

Article 75 —A General Court Martial appointed under the authority of an Order in Council shall consist of not less than five commissioned officers, and shall, if so provided in the order, be composed, either of European or of Native commissioned officers at the discretion of the officer appointing it.

Powers of such Court.

Article 76.—A General Court Martial shall have power to try all persons subject to these Articles accused of mutiny or of any other offence punishable under this Act, and to pass sentences of

Death,

Transportation for life or for any period not less than seven years,

Imprisonment (with or without hard labour, and with or without solitary confinement) for any term not exceeding fourteen years,

Dismissal from the service,

Suspension from rank, pay and allowances for any stated period,

Degradation,

Loss of standing,

Reduction to the ranks,

Corporal punishment not exceeding fifty lashes,

Forfeiture of additional pay, good conduct pay, and claim to pension,

Forfeiture of arrears of pay and allowances,

Stoppages.

Whenever any person is convicted of any offence for which he shall be transported or sentenced to imprisonment for a term of seven years or upwards, the Court may adjudge that all the rents and profits of his moveable and immoveable estate during the period of his transportation or imprison-

ment shall be forfeited to Government, subject to such provision for his family and dependents as the Government may think fit to allow during such period.

(2).—*Detachment General Court Martial.*

Appointment of such Court Martial.

Article 77.—When any portion of Her Majesty's troops is serving in any place not in British India, and not within the dominions of the Princes and States of India in alliance with Her Majesty, wherein Her Majesty's forces are permanently stationed, a Detachment General Court Martial may be appointed :—

(a).—By the Commander-in-Chief of a presidency :

(b).—By any officer authorized to appoint Detachment General Courts Martial by warrant of the Commander-in-Chief of a presidency ;

(c).—By the officer in actual command of such troops, upon complaint being made of an offence against the person or property of any resident of such place, committed by any person under such officer's command and subject to these Articles.

Its Composition and Powers.

Article 78.—Such Court Martial shall consist of not less than three commissioned officers, and shall have the same powers as a General Court Martial.

(3).—*District Court Martial, and*

(4).—*Garrison Court Martial.*

Appointment of such Courts.

Article 79.—A District or Garrison Court Martial may be appointed—

(a).—By the Commander-in-Chief of any presidency :

(b).—By any officer authorized to appoint District or Garrison Courts Martial (as the case may be) by warrant of the Commander-in-Chief of any presidency :

(c).—By any officer in actual command of Native troops authorized to appoint District or Garrison Courts Martial (as the case may be) by order of the Governor-General of India in Council, the Governor of Fort St. George in Council, or the Governor of Bombay in Council :

(d).—By any officer commanding Native troops not attached to the forces of a presidency authorized to appoint District or Garrison Courts Martial (as the case may be) by warrant which the Governor-General of India in Council has empowered the Commander-in-Chief in India to issue.

Composition of such Courts.

Article 80.—(a). Except as hereinafter provided, a District or Garrison Court Martial shall consist of seven commissioned officers, unless that number cannot conveniently be assembled, in which case such Court may consist of not less than five such officers.

(b). A District Court Martial appointed under the authority of an order in Council, may consist of any number of commissioned officers not less than three ; and may, if so provided in the order, be composed either of European or of Native commissioned officers at the discretion of the officer appointing it.

Officers composing such Courts.

Article 81.—A District or Garrison Court Martial may, when necessary, be composed wholly of officers of the regiment or corps to which the accused belongs: Provided that on the trial of a Sub-Assistant Surgeon, Hospital Assistant, Native Doctor or Warrant Officer, not more than two officers of the same regiment, corps, detachment, depôt or department as the accused shall sit upon any such Court.

Powers of such Courts.

Article 82.—A District or Garrison Court Martial shall have power to try all persons subject to these Articles, other than commissioned officers, for any offence other than mutiny made punishable by these Articles, and to pass sentences of—

Imprisonment (with or without hard labour, and with or without solitary confinement) for a term not exceeding one year,
Dismissal from the service,
Suspension from rank, pay and allowances,
Degradation,
Loss of standing,
Reduction to the ranks,
Corporal punishment not exceeding fifty lashes,
Forfeiture of additional pay, good-conduct pay and claim to pension,
Forfeiture of arrears of pay and allowances,
Stoppages.

*(5).—Regimental Court Martial.**Appointment of such Court.*

Article 83.—A Regimental Court Martial may be appointed by the officer commanding any regiment or corps.

Composition of such Court.

Article 84.—A Regimental Court Martial shall consist of not less than five commissioned officers, unless that number cannot conveniently be assembled, in which case such Court may consist of not less than three such officers.

Powers of such Court.

Article 85.—A Regimental Court Martial shall have power to try—

(a).—All persons subject to these Articles, other than commissioned officers, Sub-Assistant Surgeons, Hospital Assistants, Native Doctors and Warrant Officers, for any offence other than mutiny, desertion or disgraceful conduct, punishable under these Articles, when committed on the line of march, or on board any vessel:

(b).—Any offence punishable under this Act, and not within the ordinary jurisdiction of a Regimental Court Martial, other than mutiny, desertion and disgraceful conduct, when the officer commanding the division or district directs it to be tried by a Regimental Court Martial; and

(c).—Any offence punishable under these Articles, other than offences not within the ordinary jurisdiction of a Regimental Court Martial—

and to pass sentences of—

Dismissal,
 Loss of standing,
 Reduction to the ranks,
 Imprisonment (with or without hard labour and with or without solitary confinement) for a term not exceeding six months,
 Corporal punishment not exceeding fifty lashes,
 Forfeiture of arrears of pay and allowances,
 Stoppages.

(6).—*Regimental Detachment Court Martial, and*

(7).—*Detachment Court Martial.*

Appointment of Regimental Detachment Court Martial.

Article 86.—A Regimental Detachment Court Martial may be appointed by the officer commanding a detachment of his own regiment or corps :

Appointment of Detachment Court Martial.

Article 87.—A Detachment Court Martial may be appointed,—

(a).—By the officer commanding any station, force or detachment of men of different regiments or corps ;

(b).—By the officer in command of any detachment when any offence not within the ordinary jurisdiction of a Regimental Court Martial (other than mutiny, desertion, or disgraceful conduct), is committed on the line of march, or on board any vessel.

Composition of such Courts.

Article 88.—A Regimental Detachment Court Martial and a Detachment Court Martial, shall consist of not less than five commissioned officers, unless that number cannot conveniently be assembled, in which case such Court may consist of not less than three commissioned officers.

Powers of such Courts.

Article 89.—A Regimental Detachment Court Martial and a Detachment Court Martial shall have the same powers as a Regimental Court Martial.

(8).—*Summary Courts Martial.*

Article 90.—(a). Subject to the provisions and restrictions contained in Articles 91, 92, 93, 94, 125 and 126, a summary Court Martial may be held by the European commissioned officer who is in actual command, for the time being, of any regiment or corps,

or of any detachment consisting of, or equivalent in strength to, three troops or companies,

or of any European corps or detachment to which Native details subject to these Articles are attached,

or who is in charge of any arsenal, ordnance establishment, or camp equipage depot.

(b). In detached situations, beyond sea or out of British India, or on service in the field, or under any circumstances where, immediate example being necessary, a Detachment Court Martial cannot be assembled as provided in Article 87, and reference cannot be made to superior authority without detriment to the service, a summary Court Martial may be held by the European commissioned officer commanding a detachment of any strength :

Provided that if the officer is of less than five years' standing, he shall not carry into effect any sentence by such Court Martial until it has received the approval of the nearest superior military officer holding a command of not less than a regiment.

Constitution of such Courts.

Article 91.—At every summary Court Martial, the commanding officer holding it shall alone constitute the Court.

Persons triable by such Court.

Article 92.—No commanding officer shall have power to try by a summary Court Martial any commissioned officer, Sub-Assistant Surgeon, Hospital Assistant, Native Doctor, or Warrant Officer, or any person who is not liable to trial by Courts composed of Native commissioned officers; but all other persons subject to these Articles shall be liable to trial and punishment by a summary Court Martial:

Provided that, no person shall be so tried unless he is under the command of the officer holding the trial.

Offences triable by such Court.

Article 93.—Any offence against these Articles, except mutiny, may be tried and punished by summary Court Martial.

Provided that when there is no emergent reason for immediate action, and reference can, without detriment to discipline, be made to superior military authority, a commanding officer shall not try by summary Court Martial, without such reference, any of the following offences:—

Offences under Articles 8 to 23 both inclusive, ordinarily punishable by General Court Martial only:

Disgraceful offences under Articles 54, 55, 56, 61 and 64; and Offences against such commanding officer.

Its powers.

Article 94.—A summary Court Martial held by any officer commanding a regiment or corps may award any sentence not exceeding that awardable by a District Court Martial.

A summary Court Martial held by any commanding officer other than the officer commanding a regiment or corps, may award any sentence not exceeding that awardable by a Regimental or Detachment Court Martial.

Trial of grave offences by inferior Courts.

Article 95.—Save, as provided by Article 85, clauses (a) and (b), and Article 89, no commanding officer shall try by a Regimental or Detachment Court Martial offences which are by these Articles declared to be punishable by a General, District or Garrison Court Martial only. But, as it may be expedient that some such offences should be tried by inferior Courts Martial, the commanding officer of any regiment, corps or detachment shall, in every such instance, submit the case for the orders of the officer commanding the division or district in which he is serving, and the officer commanding such division or district, whether on or without such application, may direct trial by such kind of Court Martial as he thinks fit:

Provided that mutiny shall in no case be tried save by a General Court Martial, and that desertion and disgraceful conduct shall in no case be tried by any Court Martial inferior to a District or Garrison Court Martial.

The permission to try grave offences by District or Garrison, Regimental or Detachment Courts Martial, shall be entered upon the proceedings of such Court, and in the monthly return of trials furnished to Army Head Quarters.

Courts composed of European Officers.

Article 96.—The Governor-General of India, or the Governor of any presidency, may, by an Order in Council, direct that any Court Martial appointed under these Articles, shall be composed of European instead of Native commissioned officers, or authorize any general or other officer to appoint Courts Martial so composed at his discretion.

Any such Court Martial shall in such case be constituted accordingly, but shall in all other respects be governed by these Articles.

Claim to be tried by European Officers.

Article 97.—With the exception of cases of trial by Courts Martial appointed under orders in Council, every person subject to these Articles, who is under orders for trial by Court Martial, may claim to be tried by European officers

When any such claim is made, the Court, whether a General, District, Garrison, Regimental or Detachment Court Martial, shall be composed of European instead of Native commissioned officers; but shall in all other respects be governed by these Articles.

CHAPTER II.—*Procedure.*

Limitation of trials.

Article 98.—No person subject to these Articles shall be tried or punished by a Court Martial for any military offence after the expiration of three years from the date of such offence, unless the offender, by reason of absence or of some other manifest impediment, could not be arrested or confined and brought to trial within that period; in which case he shall be liable to be tried at any time not exceeding two years after such impediment shall have ceased.

Place of trial.

Article 99.—Any person subject to these Articles who commits any offence against them may be tried and punished for such offence in any place whatever in the same manner as if the offence had been committed in such place.

Arrest or confinement of accused.

Article 100.—Whenever any person subject to these Articles is accused of any military offence which his commanding or other superior officer considers should be tried by Court Martial, such officer shall order the accused, if not below the rank of non-commissioned officer, to be placed in arrest, or if below such rank, to be put in confinement, until he can be tried by a Court Martial, or discharged by proper authority.

No such person shall be detained in arrest or confinement longer than is necessary for the purposes of justice.

Judge Advocate.

Article 101.—It shall not be necessary to appoint a Judge Advocate to any General Court Martial appointed under the authority of an order in Council. But every other General Court Martial shall be attended by a Judge Advocate, who shall conduct the proceedings; and every District or Garrison, Regimental or Detachment Court Martial, composed of Native

commissioned officers, shall be attended by an European superintending officer of not less than four years' service, who shall conduct the proceedings.

Interpreter.

Article 102.—An interpreter shall be appointed to every Court Martial, and shall, when the Court is composed of Native officers, form part of such Court.

If no duly qualified interpreter is available at the station or place where the Court Martial sits, the officer appointing the Court, or the officer commanding in the division, district, or place within or at which the trial is to be held, shall appoint any competent person to perform the duty of interpreter.

When no other qualified or competent person is available, the superintending officer, or in the case of an European Court, the president, shall perform the duty of interpreter.

No interpreter shall, as such, have a vote upon any matter.

President.

Article 103.—At every Court Martial, whether composed of European or Native commissioned officers, the senior officer shall sit as president, without special appointment as such.

In case of the death or unavoidable absence of the president, the next senior member shall take the place of president, without special appointment as such, and the trial shall proceed if the Court be still composed of the smallest number of members of which it is required by these Articles to consist.

Conduct of Proceedings.

Article 104.—In the case of any General Court Martial appointed under an Order in Council, or of any other Court Martial composed of European commissioned officers under Article 96 or 97, the president shall conduct the proceedings.

Precedence of Native officers.

Article 105.—Risáldár majors and súbahdár majors shall take precedence according to the dates of their commissions, and above all súbahdárs or risáldárs.

Sirdár bahádurs and bahádurs shall take rank only according to their respective commissions of risáldár major, súbahdár major, risáldár, súbahdár, or jemadár.

Risáldárs shall take rank with súbahdárs, according to the dates of their commissions as risáldárs, or if they have not been risáldárs then according to the dates of their commissions as Risáldárs.

Time of Trial, Adjournment and Re-assembly.

Article 106.—Trials by Courts Martial may be carried on at any time without restriction.

The date and hour of the Court's original assembly shall be fixed by, or under the orders of, the convening officer; but the adjournment and re-assembly of a Court Martial shall be determined by the Court itself.

Challenges.

Article 107.—At all trials by Courts Martial, other than Courts Martial appointed under an Order in Council or summary Courts Martial, as soon as the Court is assembled, the names of the president and members shall be read over to the prisoner, who shall thereupon be asked by the officer conducting the proceedings, whether he objects to being tried by any officer sitting on the Court.

If the prisoner objects to any such officer, his objection, and also the reply thereto of the officer objected to, shall be heard and recorded, and the remaining officers of the Court shall, in the absence of the challenged officer, decide on the objection.

When no challenge is made, or when challenge has been made and disallowed, or the place of every officer successfully challenged has been filled by another officer to whom no objection is made or admitted, the Court shall proceed as hereinafter provided.

Interpreter's oath.

Article 108.—The officer conducting the proceedings shall then administer to the interpreter, or, when necessary, shall himself make as interpreter, an affirmation or oath as follows:—

"I solemnly affirm, in the presence of Almighty God, that I will faithfully interpret and translate the proceedings of this Court; and that I will not divulge the sentence until it shall have been published by authority; and, further, that I will not disclose or discover the vote or opinion of any particular member of the Court unless required to give evidence thereof by a Court of Justice or Court Martial, in due course of law."

When oath is made instead of affirmation, the oath shall commence—

"I do swear that I will faithfully interpret," &c., and shall be in all other respects in the above form, and shall end with the words, "So help me God."

Oaths of President and Members.

Article 109.—The interpreter, or the officer conducting the proceedings, shall then administer to the president and each of the members of the Court Martial an affirmation or oath in such of the following forms as shall be appropriate:—

For European Officers.

"I solemnly affirm, in the presence of Almighty God, that I will duly administer justice, according to the Indian Articles of War, without partiality, favor or affection; and if any doubt shall arise, then, according to my conscience, the best of my understanding, and the custom of war in the like cases; and that I will not divulge the sentence of the Court until it shall be published by authority; and, further, that I will not disclose or discover the vote or opinion of any particular member of the Court, unless required to give evidence thereof by a Court of Justice or a Court Martial, in due course of law."

When oath is made instead of affirmation, the oath shall commence—

"I do swear that I will duly administer justice," &c., and shall be in all other respects in the above form, and shall end with the words, "So help me God."

For Native Officers of the Mussalman or Hindu religion, or of any other religion for which it may be appropriate.

" I solemnly affirm, in the presence of Almighty God, that I will duly administer justice, according to the Indian Articles of War, without partiality, favor or affection; and if any doubt shall arise, then according to my conscience, the best of my understanding, and the custom of war in the like cases; and that I will not divulge the sentence of the Court until it shall be published by authority; and, further, that I will not disclose or discover the vote or opinion of any particular member of the Court, unless required to give evidence thereof by a Court of Justice or a Court Martial, in due course of law."

Judge Advocate's oath.

Article 110.—The interpreter, or any other European officer of the Court, shall then administer to the Judge Advocate, or superintending officer, the following affirmation or the following oath :—

" I solemnly affirm, in the presence of Almighty God, that I will not, upon any account whatsoever, disclose or discover the vote or opinion of any particular member of the Court Martial, unless required to give evidence thereof as a witness by a Court of Justice or a Court Martial, in due course of law; and that I will not, unless it be necessary for the due discharge of my official duties, disclose the sentence of the Court until it shall be published by authority."

When oath is made instead of affirmation, the oath shall commence—

" I do swear that I will not, upon any account whatsoever, disclose," &c., and shall be in all other respects in the above form, and shall end with the words, " So help me God."

Oaths of Witnesses.

Article 111.—Every person giving evidence at a Court Martial shall be examined on oath, or on affirmation, where affirmation is appropriate and admissible, and shall be duly sworn or affirmed in such of the following forms as may be appropriate :—

For Europeans and persons professing the Christian religion.

" I do swear that what I shall state shall be the truth, the whole truth, and nothing but the truth. So help me God."

or,

" I solemnly affirm, in the presence of Almighty God, that what I shall state shall be the truth, the whole truth, and nothing but the truth."

For Mussalman, Hindu or other Native Witnesses.

" I solemnly affirm, in the presence of Almighty God, that what I shall state shall be the truth, the whole truth, and nothing but the truth."

Oaths to be binding on conscience.

Article 112.—If none of the forms of oath or affirmation prescribed in Articles 108 to 111, both inclusive, are appropriate to any officer of a Court Martial or any witness, such officer or witness shall make oath or affirmation to the purport hereinbefore prescribed, in such form as the Court ascertains to be according to his religion or otherwise binding on his conscience.

Re-swearing in case of several trials.

Article 113.—When more trials than one are held by the same Court Martial, every officer of the Court and every witness before the Court shall make a fresh oath or affirmation, as hereinbefore prescribed, notwithstanding any previous oath or affirmation.

Presumptive evidence of desertion.

Article 114.—If at any trial for desertion, it is proved that the person tried has been absent without authority for the space of two months, such proof shall be deemed sufficient presumptive evidence of desertion; and the Court may thereupon convict him of desertion, unless he proves that his absence was not wilful, or otherwise rebuts the presumption of desertion arising from the proof of his unauthorized absence.

Reference by prisoner to Government Officer.

Articles 115.—If at any trial for desertion, absence without leave overstaying leave, or not rejoining when warned for service, the person tried states, in his defence, any sufficient or reasonable excuse for his unauthorized absence, and refers in support thereof to any officer in the civil or military service of Government, or if it appears that any such officer is likely to prove or disprove the said statement in the defence, the Court shall address such officer, and adjourn until his reply is received.

The written reply of any officer so referred to shall, if signed by him, be received in evidence, and have the same effect as if made on oath or affirmation before the Court.

If the Court is dissolved before the receipt of such reply, or if the Court omits to comply with the provisions of this Article, the convening officer may, at his discretion, annul the proceedings and order a fresh trial by the same or another Court Martial.

Trial for desertion.

Article 116.—On any trial for desertion the accused may be found guilty either of desertion or of absence without leave.

Evidence of previous convictions and general character.

Article 117.—When any person subject to these Articles has been convicted by a Court Martial of any military offence, such Court Martial shall enquire into, and receive and record evidence of any previous convictions of such person, either by a Court Martial, or by a Court of Justice; and shall further, in the case of any person below the rank of a warrant-officer, enquire into and record the general character of such person.

Evidence received under this Article may be either oral, or in the shape of entries in, or certified extracts from, the Court Martial books; and it shall not be necessary to prove the signature to such certified extract, nor shall it be necessary to give notice before trial to the person tried that evidence as to his previous convictions or character will be received.

Voting of Members.

Article 118.—The members of a Court Martial shall preserve order; and in giving their votes upon any matter, shall begin with the junior in rank.

Except where otherwise specially provided, every decision shall be passed by a majority of votes; and where there is an equality of votes, as to either finding or sentence, the decision shall be in favour of the person tried.

In matters other than the finding or sentence, the president shall have a casting vote.

Majority requisite to sentence of death.

Article 119.—No sentence of death shall be passed by any General Court Martial, other than a General Court Martial held under an Order in Council, unless such sentence is concurred in by at least two-thirds of the officers composing the Court, or by five out of seven, or four out of five officers, when the Court consists of either of those numbers.

A General Court Martial held under an Order in Council may, by the votes of a majority of such Court, pass a sentence of death.

Revision of finding or sentence.

Article 120.—The finding or sentence of any Court Martial may be revised by order of the officer authorized to dispose of the proceedings.

But no finding or sentence of a Court Martial shall be revised more than once; nor shall any evidence, save evidence as to previous convictions or general character, be received on a revision.

The Court, on revision, shall consist of the same and the same number of officers as were present when the original decision was passed, unless any such officer or officers shall be unavoidably absent.

In case of such unavoidable absence, the cause thereof shall be duly certified in the proceedings, and the Court shall proceed with the revision, provided it still consists of the smallest number of officers of which such Court is by these Articles required to consist.

Procedure to be generally followed.

Article 121.—The procedure laid down in the Articles 106 to 119 (both inclusive) shall be adopted at all trials by Court Martial save when otherwise specially ordered or provided.

Summoning witnesses.

Article 122.—The Judge Advocate, in the case of a General Court Martial, and the officer ordering the trial in the case of any other Court Martial may, by summons under his hand, require the attendance before the Court, at a time and place to be mentioned in the summons, of any person, either to give evidence or to produce documents.

In the case of a witness amenable to military authority, the summons shall be sent to the officer in actual command of the corps to which he belongs, and such officer shall serve it upon him accordingly.

In the case of any other witness, the summons shall be sent to the Magistrate within whose jurisdiction he may be, or resides, and such Magistrate shall give effect to the summons as if the witness were required in the Court of such Magistrate.

When a witness is required to produce any particular document in his possession or power, the summons shall describe it with convenient certainty.

Contempts of Court.

Article 123.—Any witness duly summoned, or any other person who commits any contempt of Court in the presence of a Court Martial, or who commits any of the offences described in Articles 56, 67, or 68, shall if subject to these Articles, be proceeded against as they direct; and shall, if

not so subject, be delivered over to a Magistrate ; who shall proceed against the offender in the same manner as if the offence had been committed before or towards a Court of criminal justice.

Privilege of witnesses.

Article 124.—Every witness, while proceeding to, attending on, or returning from any Court Martial before which he has been summoned, shall be privileged from arrest in any civil suit or proceeding ; and if arrested in any such suit or proceeding, may be discharged by order of such Court Martial.

SUMMARY COURTS MARTIAL.

Persons to attend Summary Court Martial.

Article 125.—Every summary Court Martial shall be attended by two commissioned officers, European or Native, exclusive of the commanding officer holding the trial.

An interpreter shall, in every case, attend at a summary Court Martial ; but when no other competent interpreter is available, the officer holding the trial, or one of the officers in attendance thereat, may perform the duty of interpreter.

No interpreter shall, as such, have a vote upon any matter.

Proceedings of such Courts.

Article 126.—The proceedings of every summary Court Martial shall be conducted in presence of all the officers specified in Article 125, and shall be recorded in the English language in the manner usual at other Courts Martial.

Oaths of Interpreter and Officer holding trial.

Article 127.—The interpreter at a summary Court Martial shall first make oath or affirmation, as provided by Article 108, down to the words “ published by authority ; ” and the commanding officer holding the trial shall then make oath or affirmation, as provided in Article 109, down to the words “ custom of war in the like cases.”

The officers in attendance shall not, as such, be sworn or affirmed.

Evidence.

Article 128.—All evidence at a summary Court Martial shall be taken on oath or affirmation, as provided by Article 111.

Any previous convictions on record against the offender, and his general character, shall be recorded by the commanding officer as of his own knowledge, or proved as provided by Article 117.

Signature and transmission of proceedings.

Article 129.—The proceedings in every case in which a Regimental Court Martial or a Detachment Court Martial tries an offence not within the ordinary jurisdiction of a Regimental Court Martial, committed on the line of march or on board a vessel, shall be sent for the information of the Commander-in-Chief of the presidency to which the regiment or detachment belongs, and of the presidency within which they may be or to which they are proceeding.

The proceedings of every summary Court Martial shall, when closed, be signed by the commanding officers and the officer attending the trial,

and shall, without delay, be forwarded to the officer commanding the division or district within which the trial was held; and such officer, or the Commander-in-Chief in India, or of the presidency in which the trial was held, is hereby authorized to set aside the trial for reasons based on the merits of the case, but not on any merely technical grounds.

When a summary Court Martial is held in a force not attached to any presidency, the officer commanding such force may exercise the powers given in this Article in regard to setting aside trials.

The proceedings of every other Court Martial shall, when closed, be signed by the members, and shall, without delay, be forwarded or delivered to the officer under whose orders the trial has been held.

CHAPTER III.—Sentences.

Of General Courts Martial.

Article 130.—(a). Any General Court Martial may, for any offence falling under Articles 7 to 23, both inclusive, and for such offences only, sentence any person subject to its jurisdiction to death, or to transportation for life, or for any period not less than seven years, or to imprisonment (with or without hard labour; and with or without solitary confinement) for any period not exceeding fourteen years.

(b).—Any General Court Martial may, for any offence falling under Article 54, 55 or 56 of these Articles, sentence any person as aforesaid to the penalties attached to such offences in Article 57, and may, for any other disgraceful conduct, award the penalties attached to that offence in Articles 136, 137 and 138.

(c).—Any General Court Martial may, in any case where no special punishments are prescribed, or, in addition to any special punishment, where so authorised, sentence any person amenable thereto to any punishment specified in Articles 131, 132, 133, 135, 137 and 138.

(d).—No Court Martial, other than a General Court Martial, shall have power to award a sentence of death, transportation, or imprisonment exceeding one year.

Any General Court Martial may sentence any commissioned officer to be dismissed the service or to be suspended from rank, pay and allowances for any stated period; or to be placed one or more steps lower in the list of his rank.

No Court Martial, other than a General Court Martial, shall have power to try or punish a commissioned officer.

Of General, District or Garrison Courts Martial.

Article 131.—Any General, District or Garrison Court Martial may sentence a sub-assistant surgeon, hospital assistant, native doctor or warrant officer to be dismissed the service; or to be suspended from rank, pay and allowances for any stated period; or to be reduced to a lower grade or class in his department, or to be placed one or more steps lower in the list of his rank.

No Court Martial inferior to a District or Garrison Court Martial shall have power to try or punish any sub-assistant surgeon, hospital assistant, native doctor or warrant officer.

Reduction, Dismissal, Corporal punishment and Imprisonment.

Article 132.—Any Court Martial may sentence a non-commissioned officer to be reduced to the ranks ; or to be placed one or more steps lower in the list of his rank ;

or may sentence any person subject to these Articles, below the rank of warrant officer, to be dismissed the service ; or to suffer corporal punishment not exceeding fifty lashes ; or to imprisonment with or without hard labour, and with or without solitary confinement, for such periods as are hereinafter prescribed.

Limit of Imprisonment.

Article 133.—Except in the cases provided for in Articles 24 and 37, the limit of imprisonment, whether with or without hard labour and solitary confinement, awardable by Courts Martial under these Articles, shall be for General Courts Martial two years ; for District or Garrison Courts Martial one year ; and for Regimental or Detachment Courts Martial six months.

Solitary Confinement.

Article 134.—No person shall, under any such sentence, or under one or more sentences, be kept in solitary confinement more than eighty-four days in one year, or more than fourteen days at one time, and there shall be, between the periods of solitary confinement, intervals of ordinary imprisonment at least equal to the period of solitary confinement.

Reduction to ranks.

Article 135.—No non-commissioned officer shall be sentenced by any Court Martial to imprisonment or to corporal punishment, without being first sentenced to reduction to the ranks.

Forfeiture of pay and pension.

Article 136.—On a conviction of any disgraceful conduct, a General, District or Garrison Court Martial may, in addition to any other punishment which it is empowered to award, sentence the offender to forfeit all advantage as to additional pay, good conduct pay and claim to pension on discharge, which might otherwise have accrued from the length or nature of his former service ; or to forfeit all such advantage absolutely, whether it has accrued from former service or may accrue from future service.

Forfeiture of arrears of pay.

Article 137.—On any conviction of disgraceful conduct, if the offender be sentenced to dismissal from the service, or if his sentence involve dismissal under Article 155 or Article 157, he shall further be sentenced to forfeit any arrears of pay and allowances, or other public money, due to him at the time of his dismissal, or such portion thereof as may be required to make good any proved loss or damage arising out of his disgraceful conduct.

Any Court Martial may, in addition to dismissal, or to any punishment involving dismissal under Article 157, sentence any person whom it is authorized to try, to forfeit any arrears of pay and allowances, or other public money due to him at the time of his dismissal, or such portion thereof as may be required to make good any proved loss or damage arising out of his misconduct.

Stoppages.

Article 138.—Every offender convicted of disgraceful conduct, whose dismissal from the service is not so awarded or involved as aforesaid, shall, in addition to any other punishment, be sentenced by the Court to be put under stoppages, to the extent provided by Article 139, until the amount of any proved loss or damage arising out of such conduct be made good.

And any Court Martial, in addition to any punishment other than, or not involving, dismissal, may sentence any person as aforesaid to be put under stoppages, to the extent specified in Article 139, until any proved loss or damage arising out of his misconduct be made good.

Extent of Stoppages.

Article 139.—Stoppages under Article 138 shall not be awarded, whether under one or more than one sentence; to a greater extent than, in the case of an officer, two-thirds, or in the case of any other person, one-half of his monthly pay and allowances; and shall not be so awarded as to extend beyond one year.

Any public money issued to the offender within the said period of one year shall, for the purposes of this Article, be deemed to be pay and allowances.

Sentence of Transportation or Imprisonment on person already sentenced.

Article 140.—Whenever a sentence of transportation or imprisonment is passed by any Court Martial upon an offender already under sentence of transportation for a limited term, or of imprisonment, the Court may award transportation or imprisonment to commence on the expiration of such previous sentence; notwithstanding that the aggregate of any terms of imprisonment may thus exceed the limit of imprisonment which such Court is by these Articles empowered to award.

Form of sentence of death.

Article 141.—In awarding a sentence of death, a General Court Martial shall, at its discretion, direct that the offender shall "suffer death by being hanged by the neck until he be dead," or shall "suffer death by being shot to death."

CHAPTER IV.—*Confirmation and Commutation of Sentences.**Sentences to be confirmed or otherwise disposed of.*

Article 142.—Save in the case of a summary Court Martial, no decision or sentence of any Court Martial shall be carried into effect until confirmed or otherwise disposed of by—

(a).—In the case of any Court Martial for the trial of any person within his command—the Commander-in-Chief of a presidency: or

(b).—In the case of any Court Martial for the trial of any person under his command—any officer authorized in this behalf by warrant of the Commander-in-Chief of any presidency, but subject to any restrictions contained in the warrant: or

(c).—In the case of any Court Martial for the trial of any person under his command—any officer in actual command of troops who is authorized in this behalf by the Governor-General of India in Council, the Governor of Fort Saint George in Council, or the Governor of Bombay in Council:

(d).—In the case of any Court Martial for the trial of any person under his command—any officer commanding native troops not attached to the forces of a presidency who is authorized in this behalf by warrant of the Commander-in-Chief in India :

(e).—In the case of a Detachment General Court Martial held beyond the limits of British India, and not within the dominions of Princes and States of India in alliance with Her Majesty—the officer appointing such Court Martial, unless the sentence of such Court Martial exceeds that awardable by a District or Garrison Court Martial, in which case the commander of Her Majesty's forces with which the offender is serving, shall alone have power to confirm, remit, commute or annul such sentence :

(f).—In the case of a Regimental Court Martial for the trial of any person under his command—the officer appointing such Court Martial :

(g).—In the case of a Regimental or other Detachment Court Martial for the trial of any person under his command, where the detachment consists of, or is equal in strength to, three troops or companies—the commanding officer :

(h).—But when any such Court Martial is held in a detachment of less than, or not equal in strength to, three troops or companies, the sentence shall be submitted for confirmation to the officer commanding the prisoner's regiment, or to the nearest superior officer holding a command of not less than a regiment, who is hereby empowered to dispose of such sentence in like manner as if the trial had been held by his own order :

Provided that, in detached situations beyond sea, or out of British India, or on service in the field, or in cases where immediate example is necessary and reference cannot be made to such regimental or other superior commanding officer without detriment to the service, the officer commanding any detachment, whatever its strength, may dispose of and carry out the sentence of any Detachment Court Martial held by his order :

(i).—Any Commander-in-Chief or officer mentioned in clauses (a), (b), (c), (d), (e), (f) and (g) of this Article may, subject to the provisions of these Articles, and to the restrictions (if any) in the warrant (if any) by which he is authorized in this behalf, mitigate, remit, commute or annul any sentence to the execution of which his confirmation is necessary.

Sentence of death.

Article 143.—When a sentence of death has been passed by any General Court Martial, the officer so authorized, in accordance with these Articles, may confirm such sentence and cause it to be carried into effect, or may, in lieu thereof, sentence the offender to transportation for life, or for any term not less than seven years, or to imprisonment (with or without hard labour, and with or without solitary confinement) for any term not exceeding fourteen years.

Sentence of penal servitude or transportation.

Article 144.—Notwithstanding anything hereinbefore contained, whenever any person, being an European or American or a legitimate lineal descendant of an European or American, is convicted of an offence punishable under these Articles with transportation, the Court shall sentence the offender to penal servitude instead of transportation, according to the provisions of Act No. XXIV of 1855.

When a sentence of transportation has been awarded by any General Court Martial, the officer authorized, in accordance with these Articles, may confirm the sentence and cause it to be carried into effect, or may, in lieu thereof, sentence the offender to imprisonment (with or without hard labour, and with or without solitary confinement) for any term not exceeding fourteen years, and not exceeding the term of transportation awarded by the Court.

Sentence of dismissal on Commissioned Officers, &c.

Article 146.—A sentence of dismissal from the service passed by any Court Martial under these Articles upon a commissioned officer, sub-assistant surgeon, hospital assistant, native doctor or warrant officer, may be commuted by the officer duly authorized to confirm or otherwise dispose of such sentence, to suspension from rank, pay and allowances, for any stated period.

Any sentence on Commissioned Officers, &c.

Article 146.—Except on foreign service, or when reference cannot, without detriment to discipline, be made to superior military authority, no decision or sentence passed upon any commissioned officer, sub-assistant surgeon, hospital assistant, native doctor or warrant officer, shall be carried into effect until confirmed or otherwise disposed of by the Commander-in-Chief of the presidency to which the offender belongs, or, when the offender is serving in a presidency, by the Commander-in-Chief of such presidency, or, when the offender belongs to a force not attached to any presidency, by the officer commanding the force.

Sentence of corporal punishment.

Article 147.—A sentence of corporal punishment passed by any Court Martial may be commuted, by the officer authorized to confirm or otherwise dispose of such sentence, to dismissal from the service, or to imprisonment without hard labour, and with or without solitary confinement, for any period not exceeding one year, which might have been awarded by such Court Martial.

Sentence of imprisonment with hard labour.

Article 148.—A sentence of imprisonment with hard labour passed by any Court Martial may be commuted, by the officer authorized to confirm or otherwise dispose of such sentence, to dismissal from the service, or to imprisonment without hard labour, and with or without solitary confinement, for the term mentioned in the sentence, or for any shorter term.

Sentence of reduction with corporal punishment or imprisonment.

Article 149.—The officer duly authorized to confirm or otherwise dispose of the sentence of any Court Martial may, in the case of a non-commissioned officer sentenced by any such Court, mitigate a sentence of reduction to the ranks followed by corporal punishment or imprisonment to reduction only,

Commutation of sentence of dismissal on Non-Commissioned Officers.

or may commute a sentence of dismissal from the service to reduction to the ranks:

CHAPTER V.—Execution of Sentences.

Transportation.

Article 150.—Whenever the sentence of a General Court Martial awarding transportation is duly confirmed, or whenever a sentence of death is duly commuted to transportation, the offender shall be delivered over with

a warrant of commitment, containing an authenticated copy of the sentence or commuted sentence, to the officer in charge of the nearest jail; and such officer shall give effect to the sentence accordingly, under such order as he may receive from the Local Government.

Imprisonment with hard labour.

Article 151.—Whenever the duly confirmed sentence of any Court Martial awards imprisonment with hard labour, or whenever the sentence of any Court Martial is duly commuted to such imprisonment, the offender shall be delivered over with a warrant of commitment, containing an authenticated copy of the said sentence or commuted sentence, to the officer in charge of the nearest jail; and such officer shall detain the offender, under the rules in force, in such jail, according to the exigency of the warrant, or until he is discharged by due course of law.

Place of imprisonment.

Article 152.—The Commander-in-Chief of a presidency may, as occasion requires, direct that any person under his command and sentenced under these Articles to imprisonment, shall be confined in any jail or other fit place for confinement, situate within the local limits of such command, or may order his removal from any place of confinement under military control to any other such place, or to any jail or other fit place of confinement situate within such local limits.

The officer commanding any force not attached to any presidency shall have the like powers so far as regards persons under his command and jails or other places of confinement situate within the local limits of such command.

Transfer to military custody.

Article 153.—When any person subject to these Articles is confined in any jail or other place not subject to military control, under a sentence of transportation or imprisonment, whether passed by a Court Martial or by a Court of criminal justice, the Government of India, or the Local Government of the presidency or place wherein such person is confined, may order his transfer to military custody,

or may order his removal from one to any other such place of confinement within the territories of such Government.

The period during which such person is in custody during his removal shall be reckoned as part of his term of transportation or imprisonment.

Forfeiture of pay during imprisonment.

Article 154.—Any person subject to these Articles in receipt of public pay, who is imprisoned in any place under the sentence, or commuted sentence of a Court Martial, or a Court of criminal justice, shall, during such imprisonment, if his sentence does not involve dismissal under Article 155 or Article 157, forfeit all pay and allowances, and be entitled to subsistence only according to the rates prescribed in the regulations of the Government to which he is subject.

And any such person in confinement in any place whatsoever, whether as a punishment by his commanding officer, or under any charge of which he is subsequently convicted, shall, during such confinement, forfeit all pay and allowances and be entitled to subsistence only, according to the regulations of the Government to which he is subject.

Striking Convict off strength of Regiment.

Article 155.—Every person sentenced by any Court Martial, or by any Court exercising jurisdiction in criminal cases, to transportation or to

imprisonment with hard labour for any term exceeding three months, shall, in the case of a sentence by a Court Martial, from the date of confirmation of such sentence, and in the case of a sentence by a criminal court, from the date of such sentence, be struck off the strength of the regiment, corps, or department to which he belongs.

Non-re-admission of Convict.

Article 156.—No person who has undergone any such period of transportation or imprisonment with hard labour, shall be re-admitted to the service, or be entitled to any pension :

Provided that in the case of any illegal sentence duly annulled as aforesaid, or of a pardon under Article 160, such person may, by order of the Government when the offence is non-military, or by order of the Commander-in-Chief of the presidency when the offence is military, be re-admitted to service, or pension, as the case may be.

Dismissal with ignominy.

Article 157.—Any person below the rank of warrant officer sentenced under these Articles to dismissal, or to imprisonment with hard labour, or to corporal punishment for disgraceful conduct, shall, on the confirmation of such sentence, be dismissed with ignominy from the service.

Publication of sentence for disgraceful conduct.

Article 158.—A copy of every confirmed sentence of dismissal, imprisonment with hard labour, or corporal punishment for disgraceful conduct, and of the orders passed thereupon, shall be sent by the Adjutant-General of the Army to the chief civil or political officer of the district wherein the offender's place of residence is situated; and such officer shall publish the sentence and order at the said place in such manner as may there be usual.

Sentences of Summary Courts Martial.

Article 159.—Any sentence awarded by a summary Court Martial may be carried into effect forthwith on the commanding officer's own authority, and all provisions contained in Articles 151, 152, 153, 154, 155, 156, 157, 158, 160 and 161 as to execution of sentences and disposal of prisoners, shall equally apply to persons sentenced by summary Court Martial.

CHAPTER VI.—*Pardons and remissions.*

Pardon of person convicted of military offence.

Article 160.—The Governor-General of India in Council, as regards any person subject to these Articles who has been convicted by a Court Martial of a military offence, and the Governors of Fort St. George in Council, and of Bombay in Council, and the Commander-in-Chief of any presidency, as regards any such person within the territories subject to such Government, or under the command of such Commander-in-Chief, shall have power to pardon such person, and may, instead of granting a full pardon to any such person, remit wholly or in part any punishment awarded to him by a Court Martial,

and may order the restoration to such person of any service or other advantage forfeited under his sentence.

Release of prisoners.

Article 161.—Any officer in charge of a jail, on receiving a notification under the hand of a Secretary to the Government of India, or to the

Government of Fort St. George, or to the Government of Bombay, or under the hand of the Commander-in-Chief of any presidency, or of the officer commanding any force not attached to a presidency, or any division or district, that the sentence under which any person subject to these Articles is imprisoned in such jail, has been annulled or remitted, or that any such person has been pardoned under Article 160, shall, on the authority of such notification alone, immediately release the prisoner or return him to military custody.

CHAPTER VII.—*Regimental Courts of Enquiry.*

Article 162.—If any person subject to these Articles is, without due authority, absent from his duty for two months, a regimental Court of enquiry, composed of European or Native commissioned officers, or of both in conjunction, shall forthwith assemble, and having received proof on oath or affirmation of the unauthorized absence, shall declare the same, and the period thereof; and the officer commanding the regiment or corps shall record such declaration in the regimental books.

If the person absent does not afterwards surrender or is not apprehended, such record shall have the legal effect of a conviction of desertion.

If he surrenders or is apprehended, such record, or a copy thereof purporting to bear the signature of the officer having the custody of the regimental books, shall, on the trial of such person for desertion, be presumptive evidence of the facts therein recorded; and on proof of the identity of the prisoner with the person therein mentioned, he may be found guilty of desertion.

Persons absent as Prisoners of War.

Article 163.—No person subject to these Articles shall be entitled to any pay or allowances or other public money, or to reckon service during any absence as a prisoner of war.

But when such person rejoins the service, enquiry shall be made by a Court Martial into the circumstances of his absence; and unless it is proved to the satisfaction of such Court that he was taken prisoner through his own wilful neglect of duty, or that he had served with or under, or aided the enemy, or that he had not, as soon as possible, returned to the service, he may be recommended by the Court to receive either the whole or any portion of the arrears due to him, and to reckon his service.

Such recommendation duly confirmed by the Commander-in-Chief of the presidency, or by the officer commanding any force not attached to a presidency, to which the said person belongs, shall entitle him to receive such arrears and reckon service accordingly.

TITLE IV.—POWERS OF OFFICERS INDEPENDENTLY OF TRIAL.

Reduction to ranks.

Article 164.—The Commander-in-Chief of a presidency, and the officer commanding any force not attached to a presidency, shall have, respectively, power to reduce to the ranks non-commissioned officers under their respective command.

Minor Punishments.

Article 165.—The Commander-in-Chief in India shall under the authority of the Governor-General in Council, prescribe the minor punish-

ments to which persons subject to these Articles shall for light offences be liable, without the intervention of a Court Martial, and shall specify the officer or officers by whom, and the extent to which, such minor punishments may be awarded.

No such minor punishment shall be awarded by a Court Martial; and, unless otherwise specially provided by the said Commander-in-Chief, no commissioned officer, sub-assistant surgeon, hospital assistant, native doctor or warrant officer, shall be liable to any such minor punishment.

Good conduct pay shall not necessarily be forfeited on the infliction of a minor punishment, but forfeiture thereof may be awarded as a substantive punishment, either by order of the commanding officer, or by sentence of a Court Martial, as may from time to time be prescribed in the General Orders of the Commander-in-Chief in India, or of the Commander-in-Chief of the presidency, as the case may be.

Whenever a soldier is convicted by a Court Martial, his good conduct pay shall cease.

Forfeiture of good-conduct pay may be awarded in addition to any other minor punishment.

Offences of Native Followers.

Article 166.—For any offence in breach of good order, the commanding officer of any regiment, corps or detachment, whether European or Native, in camp, or at any frontier post at which troops are stationed, and to which this Article may be specially extended by the Governor-General of India in Council, the Governor of Fort St. George in Council, the Governor of Bombay in Council, or any other Local Government, may sentence any Native follower of such regiment, corps or detachment, if above the degree of a menial servant, to pay a fine not exceeding fifty rupees, or in default of payment, or in lieu thereof, to imprisonment for any period not exceeding thirty days; or if the Native follower be not above the degree of a menial servant, to imprisonment not exceeding seven days, or to corporal punishment not exceeding twelve strokes of a rattan.

Imprisonment awarded under this Article may be carried out in a military guard, or in a jail, as ordered by the said commanding officer; and the officer in charge of any jail shall, on the delivery to him of the person of the offender, with a warrant under the hand of the said commanding officer, detain the offender according to the exigency of the warrant, or until he is discharged by due course of law.

NOTE.—The provisions of the above Article (166) have been extended to the outpost of Thul-Chotiali, Sharigh and Sibi; also to the Fort of Pishin. (*Government of India*, No. 417 (*Judicial*) dated 20th July 1883, *Gazette of India* of 21st idem, and No. 495, dated 23rd July 1886, *Gazette of India* of 24th idem, Part I, page 433).

Complaints against Officers.

Article 167.—Any person subject to these Articles, who deems himself wronged by any superior or other officer, may, if not attached to a troop or company, complain to the officer under whose command or orders he is serving: and may, if attached to a troop or company, complain to the officer commanding the same.

When the officer complained against is the officer to whom any other complaint should, under this Article, be preferred, the aggrieved person shall complain to such officer's next superior officer.

No such complaint shall be made to any officer other than those indicated in the former part of this Article.

Every officer receiving any such complaint shall examine into it, and, when necessary, refer it to superior authority.

Every such complaint shall be preferred through such channels as may be from time to time prescribed by proper authority; and any person preferring a frivolous or groundless complaint, shall be liable to trial by any Court Martial competent to try him, and to such punishment other than dismissal, corporal punishment, or imprisonment with hard labour, as the Court is empowered by these Articles to award.

Provost Marshals.

Article 168.—For the prompt and instant repression of irregularities and offences committed in the field, or on the line of march, provost marshals shall be appointed by the Commander-in-Chief of the presidency, or the officer commanding the forces in the field, and the powers and duties of such provost marshals shall be regulated according to the established custom of war and the rules of the service.

Their duties and powers.

Article 169.—The duties of a provost marshal so appointed are to take charge of prisoners confined for offences of a general description, to preserve good order and discipline, and to prevent breaches of the same by persons belonging or attached to the army.

The provost marshal may punish, corporally, then and there, any person amenable to these Articles below the rank of warrant officer, who in his view or in the view of any of his assistants, commits any breach of good order and military discipline:

Provided that such punishment shall be limited to the necessity of the case, and shall accord with the orders which the provost marshal may from time to time receive from the officer commanding the troops:

Provided also, that the orders of the said commanding officer shall in no case authorize such corporal punishment in excess of that awardable by sentence of a Court Martial.

If the actual commission of the offence is not witnessed by the Provost marshal, or any of his assistants, but sufficient proof can be obtained of the offender's guilt, he shall report the case to the commander of the troops, who shall deal with the case as he may deem most conducive to the maintenance of good order and military discipline.

TITLE V.—NON-MILITARY OFFENCES.

Offences committed within jurisdiction of Criminal Court.

Article 170.—Any person subject to these Articles who, at any place in British India within the jurisdiction of any Court of criminal justice established by Her Majesty, or by the Government of India, or by the Local Government, is accused of any offence against the Indian Penal Code, and not included in the foregoing Articles, shall be delivered over to the nearest Magistrate to be proceeded against according to law.

All persons in, or attached to, the army, are hereby required, upon application duly made to them for that purpose, to assist the officer of justice in apprehending and securing any such accused person.

Any person in, or attached to, the army, wilfully neglecting or refusing so to assist, shall be punished with any punishment, other than death or transportation, awardable under these Articles.

Offences committed out of British India.

Article 171.—In any place out of British India, offences against the Indian Penal Code, and not included in the foregoing Articles shall, when committed by any person amenable to these Articles, be cognizable by a General Court Martial to be convened by any officer who is empowered by warrant, or Order in Council, or by Article 77, to appoint General Courts Martial.

General Court Martial for trial of such offences.

Article 172.—The provisions of these Articles as to the composition and procedure of General Courts Martial, shall, with the exception of those contained in Article 117, apply to General Courts Martial for the trial of non-military offences :

Provided that such General Courts Martial shall, in every case, be attended by a Judge Advocate.

Sentences of such Court.

Article 173.—A General Court Martial held for the trial of a non-military offence, shall, on the conviction of any offender, award punishment in accordance with the provisions of the Indian Penal Code.

Confirmation of sentences.

Article 174.—No decision or sentence passed by any such General Court Martial shall be carried into effect until confirmed or otherwise disposed of by the authority which, under these Articles, is empowered to confirm or otherwise dispose of the sentence of such General Court Martial ; and no sentence of death shall be carried into effect until confirmed by the Commander-in-Chief of the presidency to which the offender belongs, or, when the offender is beyond the limits of British India, until confirmed by the officer commanding Her Majesty's forces with which the offender is serving, or when the offender does not belong to any presidency, until confirmed by the Commander-in-Chief in India.

*Commutation of sentences.**Prisoners.*

Article 175.—All the provisions contained in Articles 143, 144, 148, 150, 151, 152, 153, 154, 155, 156 and 161, relating to the disposal of sentences and of sentenced prisoners, shall apply to persons sentenced by a General Court Martial for a non-military offence.

TITLE VI.—EFFECTS OF DECEASED MEN AND OF DESERTERS.

Article 176.—When any person subject to these Articles dies, or is killed in the field, the officer commanding the regiment, corps or detachment, or the officer in charge of the department to which such person belonged, shall, if no representative in interest of such person be on the spot, secure his effects in camp or quarters, and cause an inventory thereof to be made, and a duplicate of such inventory to be lodged with the officer commanding, or in charge of the regiment, corps, detachment or department to which the deceased belonged.

Sale of effects and discharge of debts.

Article 177.—If there be no representative on the spot, or readily accessible, such officer shall, without any representation taken out, publicly sell such part of the effects of the deceased in camp or quarters as do not consist of money, and shall pay thereout the debts of the deceased in camp

or quarters, the expense of his funeral ceremonies, and his regimental debts of every description; and shall pay the surplus (if any) to the representative in interest of the deceased.

Remittal of Surplus.

Article 178.—In the event of no claim for the surplus of the deceased person's estate being made and established within twelve months of his death, the amount in the hands of the officer in charge of the estate shall be remitted to the Comptroller-General of Accounts at Calcutta, or to the Accountant-General to the Government of Fort St. George or of Bombay; or, if the deceased shall have belonged to a force not under any presidency, to the Comptroller-General of Accounts at Calcutta.

Sale of effects of Deserters.

Article 179.—The effects in camp or quarters of a deserter shall be publicly sold, and the proceeds, after payment thereof of all regimental or departmental claims, shall be remitted by the officer commanding, or in charge of, the regiment, corps, detachment or department to which the deserter belongs, to the Comptroller-General of Accounts at Calcutta, or to the Accountant-General to the Government of Fort St. George or of Bombay.

Remittal of proceeds.

If the deserter belongs to a force not attached to any presidency, then the said proceeds shall be remitted to the Comptroller-General of Accounts at Calcutta.

PART III.—MISCELLANEOUS.

Prohibition of Second Trial.

(a).—Persons subject to the Articles contained in Part II of this Act, who have been acquitted or convicted, either by a Court Martial or by a Court of criminal justice, of any offence, whether military or non-military, shall not be again tried or punished for the same offence by any Court whatsoever.

But any such person may be dismissed the service.

Prohibition of Arrest for Debt.

(b).—No person attested under this Act or any previous Articles of War for Her Majesty's Indian Army shall, so long as he belongs to such army, be liable to be arrested for debt under any process issued by, or by the authority of, any Court of law.

The Judge of any such Court may examine into any complaint made by such person or his superior officer, of the arrest of such person contrary to the intent of this Act, and may by warrant under his hand discharge such person, and shall award reasonable costs to the complainant, who may recover such costs in like manner as he might have recovered costs awarded to him by a decree against the person obtaining such process.

The arms, horse, clothes, equipments, regimental accoutrements and necessities of any such attested person shall not be seized, nor shall his pay and allowances or any part thereof be attached in satisfaction of any judgment against him or any person whom he may represent.

Breach of Cantonment Rules.

(c).—When any offence in breach of any duly authorized cantonment rule or regulation is committed by any person not subject to the said

Articles, and not an European British subject or an officer or soldier, the officer commanding the cantonment may, where there is no Cantonment Magistrate, summon or order the apprehension of the offender: and such officer may (after personally investigating the case) sentence the offender to pay a fine not exceeding fifty rupees; or in default of payment of, or in lieu of, such fine, to imprisonment in any jail or military guard for a period not exceeding thirty days.

The officer in charge of any jail shall, on the delivery to him of the person of the offender, with a warrant under the hand of the said commanding officer, detain the offender according to the exigency of the warrant, or until he is discharged by due course of law.

Capture of Deserters.

(d).—Whenever any person subject to the said Articles deserts, the commanding officer of the regiment, corps, or detachment to which he belongs, shall give written information of the desertion to such civil, political, or police authorities as, in his opinion, may be able to afford assistance towards the capture of the deserter; and such authorities shall thereupon take steps for the apprehension of the said deserter, in like manner as if he were a person for whose capture a warrant had been issued by a Magistrate, and shall deliver the deserter when apprehended to military custody.

Such authorities shall also, by such means as appear to them best adapted for the purpose, prevent persons reasonably suspected to be subject to the said Articles from travelling through the district subject to their jurisdiction, unless on duty, or furnished with a certificate of leave or discharge.

Any police officer may arrest, without warrant, any person so suspected, and shall bring him without delay before the nearest Magistrate, or the nearest military commanding officer when no Magistrate is readily accessible, to be dealt with according to law.

Apprehension of Military Offenders.

(e).—Whenever any person subject to the said Articles, who is accused of any military offence, is within the jurisdiction of any civil, political, or police officer, such officer shall aid in the apprehension and delivery to military custody of such person upon receipt of a written application to that effect, signed by his commanding officer.

Presumption as to signatures.

(f).—In any proceeding under this Act, any application, certificate, warrant, reply or other document purporting to be signed by an officer in the civil or military service of Government shall, on production, be presumed to have been duly signed by the person and in the character by whom and in which it purports to have been signed, until the contrary is shown.

Native Troops serving out of their own Presidency.

(g).—When any portion of the Native troops belonging to any presidency is serving within the limits of any other presidency, such troops shall, during such service, for all the purposes of the said Articles, be under the authority and orders of the Commander-in-Chief of the presidency in which they are serving:

Provided that it shall be lawful for the Governor-General of India in Council to direct that, for the purposes of the said Articles, Native troops

serving out of their own presidency shall continue subject to the authority and orders of the Commander-in-Chief of the presidency to which such troops belong.

Power to make orders and issue Warrants.

- (h).—The Governor-General of India in Council,
The Governors of Fort St. George and Bombay in Council,
The Commander-in Chief of any presidency,

may respectively make all orders and issue all warrants for holding Courts Martial or otherwise, which appear necessary for the purposes of this Act; and in the case of military offences requiring to be disposed of without delay, the Governor-General of India in Council, and the Governors of Fort St. George and Bombay in Council, may respectively further authorize any officer empowered by Order in Council to confirm, commute, remit or annul sentences in such cases, to refer such sentences for orders to the Commander-in-Chief of the presidency.

Limitation of powers.

- (i).—Nothing hereinafter contained shall empower the Commander-in-Chief of a presidency to re-admit to service or pension any person not within his command, or to authorize any officer to appoint, or to confirm, commute, remit, or annul the sentences of Courts Martial for the trial of any person not within the command of such Commander-in-Chief, except in the case specified in the proviso in clause (g) of this Part,

or shall empower any Government to give directions as to the composition of, or to authorize the appointment of Courts Martial in any place for the time being subject to any other Government.

Nothing in this Act shall be deemed to affect the authority conferred on the Commander-in-Chief in India by any Act of Parliament or by Royal warrant or commission.

Power to make Rules.

- (j).—It shall be lawful for the Governor-General of India in Council from time to time to make rules consistent with this Act, for the guidance of officers, whether military, civil, or political, in all matters connected with its enforcement.

All such rules shall be published in the *Gazette of India*, and shall thereupon be deemed to have the force of law.

The Commander-in-Chief in India, as regards the presidency of Fort William and forces not attached to any presidency, may, with the previous sanction of the Governor-General of India in Council, and the Commander-in-Chief of the presidencies of Fort Saint George and Bombay, as regards their respective presidencies, may, with the previous sanction of the Local Government, from time to time substitute for the forms of affirmation given in Articles 109 and 111 as appropriate to Native officers and witnesses, such other forms as may be thought appropriate to Native officers and witnesses of any religion.

Articles to be read periodically.

- (k).—The following Articles, namely, Articles 3, 4, 5, 7 to 71, both inclusive, 90, 91, 92, 93, 94, 125, 126, 130, 131, 132, 133, 135, 136, 137, 138, 139, 154, 167 and 176, shall be read once in every three months at the head of every regiment, corps, troop, or company in the service.

APPENDIX.

PART I.—DEFINITIONS IN THE INDIAN PENAL CODE.

[See PART I, CLAUSE (e).]

Wrongful gain.

23. “Wrongful gain” is gain, by unlawful means, of property to which the person gaining is not legally entitled.

Wrongful loss.

“Wrongful loss” is the loss, by unlawful means, of property to which the person losing it is legally entitled.

A person is said to gain wrongfully when such person retains wrongfully, as well as when such person acquires wrongfully. A person is said to lose wrongfully when such person is wrongfully kept out of any property, as well as when such person is wrongfully deprived of property.

Dishonestly.

24. Whoever does anything with the intention of causing wrongful gain to one person, or wrongful loss to another person, is said to do that thing “dishonestly,”

Fraudulently.

25. A person is said to do a thing fraudulently if he does that thing with intent to defraud, but not otherwise.

Reason to believe.

26. A person is said to have “reason to believe” a thing, if he has sufficient cause to believe that thing, but not otherwise.

OF HURT.

Hurt.

319. Whoever causes bodily pain, disease, or infirmity to any person is said to cause hurt.

Grievous Hurt.

320. The following kinds of hurt only are designated as “grievous”:—

First.—Emasculation.

Secondly.—Permanent privation of the sight of either eye.

Thirdly.—Permanent privation of the hearing of either ear.

Fourthly.—Privation of any member or joint.

Fifthly.—Destruction or permanent impairing of the power of any member or joint.

Sixthly.—Permanent disfiguration of the head or face.

Seventhly.—Fracture or dislocation of a bone or tooth.

Eighthly.—Any hurt which endangers life, or which causes the sufferer to be, during the space of twenty days, in severe bodily pain, or unable to follow his ordinary pursuits.

Voluntarily causing hurt.

321. Whoever does any act with the intention of thereby causing hurt to any person, or with the knowledge that he is likely thereby to cause hurt to any person and does thereby cause hurt to any person, is said “voluntarily to cause hurt.”

Voluntarily causing grievous hurt.

322. Whoever voluntarily causes hurt, if the hurt which he intends to cause, or knows himself to be likely to cause, is grievous hurt, and if the hurt which he causes is grievous hurt, is said "voluntarily to cause grievous hurt."

Explanation.—A person is not said voluntarily to cause grievous hurt except when he both causes grievous hurt and intends or knows himself to be likely to cause grievous hurt. But he is said voluntarily to cause grievous hurt if, intending or knowing himself to be likely to cause grievous hurt of one kind, he actually causes grievous hurt of another kind.

Illustration.

A, intending, or knowing himself to be likely, permanently to disfigure Z's face, gives Z a blow, which does not permanently disfigure Z's face, but which causes Z to suffer severe bodily pain for the space of twenty days; A has voluntarily caused grievous hurt.

OF CRIMINAL FORCE AND ASSAULT.

Force.

349. A person is said to use force to another if he causes motion, change of motion, or cessation of motion to that other, or if he causes to any substance such motion, or change of motion, or cessation of motion as brings that substance into contact with any part of that other's body, or with anything which that other is wearing or carrying, or with anything so situated that such contact affects that other's sense of feeling: Provided that the person causing the motion, or change of motion, or cessation of motion, causes that motion, change of motion, or cessation of motion in one of the three ways hereinafter described:

First.—By his own bodily power.

Secondly.—By disposing any substance in such a manner that the motion, or change, or cessation of motion takes place without any further act on his part, or on the part of any other person.

Thirdly.—By inducing any animal to move, to change its motion, or to cease to move.

Criminal Force.

350. Whoever intentionally uses force to any person, without that person's consent, in order to the committing of any offence, or intending by the use of such force to cause, or knowing it to be likely that by the use of such force he will cause, injury, fear, or annoyance to the person to whom the force is used, is said to use criminal force to that other.

Illustrations.

(a). Z is sitting in a moored boat on a river. A unfastens the moorings, and thus intentionally causes the boat to drift down the stream. Here A intentionally causes motion to Z, and he does this by disposing substances in such manner that the motion is produced without any other act on any person's part. A has therefore intentionally used force to Z; and if he has done so without Z's consent, in order to the committing of any offence, or intending or knowing it to be likely that this use of force will cause injury, fear, or annoyance to Z, A has used criminal force to Z.

(b). Z is riding in a chariot. A lashes Z's horses, and thereby causes them to quicken their pace. Here A has caused change of motion to Z by inducing the animals to change their motion. A has therefore used force to Z; and if A has done this without Z's consent, intending or knowing it to be likely that he may thereby injure, frighten, or annoy Z, A has committed criminal force to Z.

(c). Z is riding in a palanquin. A, intending to rob Z, seizes the pole and stops the palanquin. Here A has caused cessation of motion to Z, and he has done this by his own bodily power. A has therefore used force to Z; and as A has acted thus intentionally without Z's consent, in order to the commission of an offence, A has used criminal force to Z.

(d). A intentionally pushes against Z in the street. Here A has, by his own bodily power, moved his own person so as to bring it into contact with Z. He has therefore intentionally used force to Z, and if he has done so without Z's consent, intending or knowing it to be likely that he may thereby injure, frighten, or annoy Z, he has used criminal force to Z.

(e). A throws a stone, intending or knowing it to be likely that the stone will be thus brought into contact with Z, or with Z's clothes, or with something carried by Z, or that it will strike water and dash up the water against Z's clothes, or something carried by Z. Here, if the throwing of the stone produce the effect of causing any substance to come into contact with Z or Z's clothes, A has used force to Z; and if he did so without Z's consent, intending thereby to injure, frighten or annoy Z, he has used criminal force to Z.

(f). A intentionally pulls up a woman's veil. Here A intentionally uses force to her, and if he does so without her consent, intending or knowing it to be likely that he may thereby injure, frighten, or annoy her, he has used criminal force to her.

(g). Z is bathing. A pours into the bath water which he knows to be boiling. Here A, intentionally, by his own bodily power, causes such motion in the boiling water as brings that water into contact with Z, or with other water so situated that such contact must affect Z's sense of feeling; A has therefore intentionally used force to Z; and if he has done this without Z's consent, intending or knowing it to be likely that he may thereby cause injury, fear or annoyance to Z, A has used criminal force.

(h). A incites a dog to spring upon Z, without Z's consent. Here, if A intends to cause injury, fear, or annoyance to Z, he uses criminal force to Z.

Assault.

351. Whoever makes any gesture or any preparation, intending or knowing it to be likely that such gesture or preparation will cause any person present to apprehend that he who makes that gesture or preparation is about to use criminal force to that person, is said to commit an assault.

Explanation.—Mere words do not amount to an assault. But the words which a person uses may give to his gesture or preparation such a meaning as may make those gestures or preparations amount to an assault.

Illustrations.

(a). A shakes his fist at Z, intending or knowing it to be likely that he may thereby cause Z to believe that A is about to strike Z. A has committed an assault.

(b). A begins to unloose the muzzle of a ferocious dog, intending or knowing it to be likely that he may thereby cause Z to believe that he is about to cause the dog to attack Z. A has committed an assault upon Z.

(c). A takes up a stick, saying to Z, "I will give you a beating." Here, though the words used by A could in no case amount to an assault, and though the mere gesture unaccompanied by any other circumstances might not amount to an assault, the gesture explained by the words may amount to an assault.

Theft.

378. Whoever, intending to take dishonestly any moveable property out of the possession of any person without that person's consent moves that property in order to such taking, is said to commit theft.

Explanation 1.—A thing so long as it is attached to the earth, not being moveable property, is not the subject of theft: but it becomes capable of being the subject of theft as soon as it severed from the earth.

Explanation 2.—A moving, effected by the same act which effects the severance, may be a theft.

Explanation 3.—A person is said to cause a thing to move by removing an obstacle which prevented it from moving, or by separating it from any other thing, as well as by actually moving it.

Explanation 4.—A person, who by any means causes an animal to move, is said to move that animal, and to move everything which, in consequence of the motion so caused, is moved by that animal.

Explanation 5.—The consent mentioned in the definition may be express or implied, and may be given either by the person in possession, or by any person having for that purpose authority either express or implied.

Illustrations.

(a). A cuts down a tree on Z's grounds, with the intention of dishonestly taking the tree out of Z's possession, without Z's consent. Here, as soon as A has severed the tree in order to such taking, he has committed theft.

(b). A puts a bait for dogs in his pocket, and thus induces Z's dog to follow it. Here if A's intention be dishonestly to take the dog out of Z's possession without Z's consent, A has committed theft as soon as Z's dog has begun to follow A.

(c). A meets a bullock, carrying a box of treasure. He drives the bullock in a certain direction, in order that he may dishonestly take the treasure. As soon as the bullock begins to move, A has committed theft of the treasure.

(d). A, being Z's servant, and entrusted by Z with the care of Z's plate, dishonestly runs away with the plate, without Z's consent. A has committed theft.

(e). Z, going on a journey, entrusts his plate to A, the keeper of a warehouse, till Z shall return. A carries the plate to a goldsmith and sells it. Here the plate was not in Z's possession. It could not therefore be taken out of Z's possession, and A has not committed theft, though he may have committed criminal breach of trust.

(f). A finds a ring belonging to Z on a table in the house which Z occupies. Here the ring is in Z's possession, and if A dishonestly removes it, A commits theft.

(g). A finds a ring lying on the high-road, not in the possession of any person. A, by taking it, commits no theft though he may commit criminal misappropriation of property.

(h). A sees a ring belonging to Z lying on a table in Z's house. Not venturing to misappropriate the ring immediately for fear of search and detection, A hides the ring in a place where it is highly improbable that it will ever be found by Z, with the intention of taking the ring from the hiding place and selling it when the loss is forgotten. Here A, at the time of first moving the ring, commits theft.

(i). A delivers his watch to Z, a jeweller, to be regulated. Z carries it to his shop. A, not owing to the jeweller any debt for which the jeweller might lawfully detain the watch as a security, enters the shop, openly takes his watch by force out of Z's hand, and carries it away. Here A, though he may have committed criminal trespass and assault, has not committed theft, inasmuch as what he did was not done dishonestly.

(j). If A owes money to Z for repairing the watch, and if Z retains the watch lawfully as a security for the debt, and A takes the watch out of Z's possession, with the intention of depriving Z of the property as a security for his debt, he commits theft, inasmuch as he takes it dishonestly.

(k). Again if A, having pawned his watch to Z, takes it out of Z's possession without Z's consent, not having paid what he had borrowed on the watch, he commits theft, though the watch is his own property, inasmuch as he takes it dishonestly.

(l). A takes an article belonging to Z out of Z's possession, without Z's consent, with the intention of keeping it until he obtains money from Z, as a reward for its restoration. Here A takes dishonestly; A has therefore committed theft.

(m). A, being on friendly terms with Z, goes into Z's library in Z's absence, and takes away a book without Z's express consent, for the purpose merely of reading it, and with the intention of returning it. Here, it is probable that A may have conceived that he had Z's implied consent to use Z's book. If this was A's impression, A has not committed theft.

(n). A asks charity from Z's wife. She gives A money, food and clothes, which A knows to belong to Z, her husband. Here, it is probable that A may conceive that Z's wife is authorized to give away alms. If this was A's impression, A has not committed theft.

(o). A is the paramour of Z's wife. She gives A valuable property, which A knows to belong to her husband Z, and to be such property as she has not authority from Z to give. If A takes the property dishonestly, he commits theft.

(p). A in good faith, believing property belonging to Z to be A's own property, takes that property out of B's possession. Here, as A does not take dishonestly, he does not commit theft.

OF EXTORTION.

Extortion.

383. Whoever intentionally puts any person in fear of any injury to that person or to any other, and thereby dishonestly induces the person so put in fear to deliver to any person any property or valuable security, or anything signed or sealed which may be converted into a valuable security, commits "extortion."

Illustrations.

(a). A threatens to publish a defamatory libel concerning Z, unless Z gives him money. He thus induces Z to give him money. A has committed extortion.

(b). A threatens Z that he will keep Z's child in wrongful confinement, unless Z will sign and deliver to A a promissory note binding Z to pay certain monies to A. Z signs and delivers the note. A has committed extortion.

(c). A threatens to send club-men to plough up Z's field, unless Z will sign and deliver to B a bond binding Z under a penalty to deliver certain produce to B, and thereby induces Z to sign and deliver the bond. A has committed extortion.

(d). A putting Z in fear of grievous hurt, dishonestly induces Z to sign or affix his seal to a blank paper, and deliver it to A. Z signs and delivers the paper to A. Here, as the paper so signed may be converted into a valuable security, A has committed extortion.

II.—INDIAN PENAL CODE, CHAPTER V.

OF ABETMENT.

SECTIONS 107 AND 108.

(See *Article 71.*)

Abetment of a thing.

107. A person abets the doing of a thing who—

First,—Instigates any person to do that thing ; or,

Secondly,—Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing ; or,

Thirdly,—Intentionally aids, by any act or illegal omission, the doing of that thing.

Explanation 1.—A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.

Illustration.

A, a public officer, is authorized by a warrant from a Court of Justice to apprehend Z B, knowing that fact, and also that C is not Z, wilfully represents to A that C is Z, and thereby intentionally causes A to apprehend C. Here B abets by instigation the apprehension of C.

Explanation 2.—Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitates the commission thereof, is said to aid the doing of that act.

Abettor.

108. A person abets an offence who abets either the commission of an offence, or the commission of an act which would be an offence, if committed by a person capable by law of committing an offence with the same intention or knowledge as that of the abettor.

Explanation 1.—The abetment of the illegal omission of an act may amount to an offence, although the abettor may not himself be bound to do that act.

Explanation 2.—To constitute the offence of abetment, it is not necessary that the act abetted should be committed, or that the effect requisite to constitute the offence should be caused.

Illustrations.

(a). A instigates B to murder C. B refuses to do so. A is guilty of abetting B to commit murder.

(b). A instigates B to murder D. B in pursuance of the instigation stabs D. D recovers from the wound. A is guilty of instigating B to commit murder.

Explanation 3.—It is not necessary that the person abetted should be capable by law of committing an offence, or that he should have the same guilty intention or knowledge as that of the abettor, or any guilty intention or knowledge.

Illustrations.

(a). A, with a guilty intention, abets a child or a lunatic to commit an act which would be an offence if committed by a person capable by law of committing an offence, and having the same intention as A. Here A, whether the act be committed or not, is guilty of abetting an offence.

(b). A, with the intention of murdering Z, instigates B, a child under seven years of age, to do an act which causes Z's death. B, in consequence of the abetment, does the act, and thereby causes Z's death. Here, though B was not capable by law of committing an offence, A is liable to be punished in the same manner as if B had been capable by law of committing an offence, and had committed murder, and he is therefore subject to the punishment of death.

(c). A instigates B to set fire to a dwelling-house. B, in consequence of the unsoundness of his mind, being incapable of knowing the nature of the act, or that he is doing what is wrong or contrary to law, sets fire to the house in consequence of A's instigation. B has committed no offence, but A is guilty of abetting the offence of setting fire to a dwelling house, and is liable to the punishment provided for that offence.

(d). A, intending to cause a theft to be committed, instigates B to take property belonging to Z out of Z's possession. A induces B to believe that the property belongs to A. B takes the property out of Z's possession, in good faith, believing it to be A's property. B, acting under this misconception, does not take dishonestly, and therefore does not commit theft. But A is guilty of abetting theft, and liable to the same punishment as if B had committed theft.

Explanation 4.—The abetment of an offence being an offence, the abetment of such an abetment is also an offence.

Illustration.

A instigates B to instigate C to murder Z. B accordingly instigates C to murder Z, and C commits that offence in consequence of B's instigation. B is liable to be punished for his offence with the punishment for murder; and as A instigated B to commit the offence, A is also liable to the same punishment.

Explanation 5.—It is not necessary to the commission of the offence of abetment by conspiracy that the abettor should concert the offence with the person who commits it. It is sufficient if he engage in the conspiracy in pursuance of which the offence is committed.

Illustration.

A concert with B a plan for poisoning Z. It is agreed that A shall administer the poison. B then explains the plan to C, mentioning that a third person is to administer the poison, but without mentioning A's name. C agrees to procure the poison and procures and delivers it to B for the purpose of its being used in the manner explained. A administers the poison; Z dies in consequence. Here, though A and C have not conspired together, yet C has been engaged in the conspiracy in pursuance of which Z has been murdered. C has therefore committed the offence defined in this section, and is liable to the punishment for murder.

ACT No. XV of 1869.*(Passed on the 4th June 1869).*

An Act to provide facilities for obtaining the evidence and appearance of prisoners and for service of process upon them.

WHEREAS it is expedient to provide facilities for obtaining the evidence and appearance in Court of prisoners and for service of process upon them ; It is hereby enacted as follows :—

Preamble.

PART I.**PRELIMINARY.**

Short title.

1. This Act may be, called " The Prisoners Testimony Act, 1869. "

2. For the purposes of this Act, the Courts of Small Causes established within the local limits of the ordinary original civil jurisdiction of the High Courts of Judicature at Fort William, Madras and Bombay, and the Courts of persons exercising the powers of a Magistrate of Police within the same limits, shall be deemed to be respectively subordinate to the said High Courts.

Presidency Small Cause Courts.

Police Magistrates.

PART II.**BRINGING UP PRISONERS.**

3. Any criminal Court not inferior to the Court of a subordinate Magistrate of the first class, may in its discretion, if it appear that the testimony of any person confined in any jail situate within the local limits of its appellate jurisdiction, if the criminal Court be a High Court, or, if it be not a High Court, then within the local limits of the appellate jurisdiction of the High Court to which it is subordinate, is material in any matter depending in such criminal Court, or if a charge of an offence against such person is made or pending, make an order in the form in schedule A or schedule B (as the case may be) to this Act annexed, directed to the officer in charge of the said jail.

NOTE.—For the purpose of causing prisoners to be brought up to give evidence, the Coroner shall be deemed a Criminal Court within the meaning of this Act.—(Act IV of 1871, Section 17.)

4. Any civil Court may in its discretion, if it appears that the testimony of any person confined in any jail situate within the local limits of its appellate jurisdiction, if the civil Court be a High Court, or, if it be not a High Court, then within the local limits of the appellate jurisdiction of the High Court to which it is subordinate, is material in any matter depending in such civil Court, make an order in the form in the said schedule A, directed to the officer in charge of the said jail.

5. When such order is made in any civil matter pending in a Court subordinate to the Court of the District Judge, or in any Court of Small Causes situate outside the local limits of the ordinary original civil jurisdiction, the Court may cause the order to be countersigned by the District Judge or the District Magistrate.

Courts to countersign orders.

tion of the High Courts of Judicature at Fort William in Bengal, Madras and Bombay, it shall not be forwarded to the officer to whom it is directed, or acted upon by him, until the same shall have been submitted to, and countersigned by, such Judge, or the District Judge within the local limits of whose jurisdiction such Court of Small Causes is situate.

Every order so submitted shall be accompanied by a statement under the hand of the Judge of the facts, which in his opinion render such order necessary, and the District Judge may, after considering such statement, decline to countersign the order.

Statement of facts necessitating order.

6. When any person for whose attendance an order as hereinbefore mentioned shall be made is confined in any district other than that in which the Court making or countersigning the order is situate, the order shall be sent by the Court by which it shall have been made or countersigned to the Magistrate of the district or division of a district in which the said person is confined, and such Magistrate shall cause it to be delivered to the officer in charge of the jail in which such person is confined.

Order to be transmitted through Magistrate of the District in which the person is confined.

7. In any case in which a person is confined in a jail within the local limits of the ordinary original civil jurisdiction of any of the High Courts of Judicature at Fort William, Madras and Bombay, or in a jail more than one hundred miles distant from the place where any Court, subordinate to a High Court, in which his evidence is required, is held, the Judge or presiding officer of the Court in which the evidence is so required shall, if he think it expedient that such person should be removed under this Act for the purpose of giving evidence in such Court, and if the said jail is situate within the local limits of the appellate jurisdiction of the High Court to which such Court is subordinate, apply in writing to the same High Court, and such High Court may, if it think fit, make an order in the form in the said schedule A, directed to the officer in charge of the said jail.

Order by High Court for removal of person confined more than 100 miles from place where his evidence is required.

The High Court making the order shall send it to the Magistrate of the district or division of a district in which the person named therein is confined, and such Magistrate shall cause the order to be delivered to the officer in charge of the jail in which such person is confined.

For the purposes of this Act, every jail in British Burma shall be deemed to be situate within the local limits of the appellate jurisdiction of the Judicial Commissioner; and the Recorder of Rangoon may issue orders, under this section or sections three and four, and may also issue commission under Part III of this Act, in any jail in British Burma.

NOTE.—Amended by Act XVII of 1875, Section 93.

8. In any case in which a person is confined within a jail situate beyond the local limits of the appellate jurisdiction of a High Court, any Judge of such Court may, if he think it expedient that such person should be removed under this Act, for the purpose of giving evidence in any criminal matter in such Court or in any Court subordinate thereto, apply in writing to the Local Government within the territories subject to which the said

Persons confined beyond limits of appellate jurisdiction of High Court.

jail is situate; and such Government may, if it think fit, direct that such person shall be so removed subject to such rules regulating the escort of such prisoners as the Governor-General of India in Council may from time to time prescribe.

To obtain the removal of a person confined in a jail situate beyond the territories for the time being under the administration of the Chief Commissioner of British Burma for the purpose of giving evidence in any criminal matter in the Court of a Recorder, such Recorder shall have the power conferred on a Judge of a High Court by the former part of this section, and the other provisions of such part shall, *mutatis mutandis*, apply.

9. Upon delivery of any order under this Act to the officer in charge of the jail in which the person named therein is confined, such officer shall cause him to be taken to the Court in which his attendance is required, so as to be present in such Court at the time in such order mentioned; and shall cause him to be detained in custody in or near the Court until he shall have been examined or until the Judge or presiding officer of such Court shall authorize him to be taken back to the jail in which he was confined.

10. The Governor-General of India in Council or the Local Government may, from time to time, by notification in the official Gazette, direct that any person or any class of persons shall not be removed from the jail in which he or they may be confined; and thereupon, and so long as such notification remains in force, the provisions of this Act, other than those contained in sections twelve, thirteen and fourteen, shall not apply to such person or class of persons.

NOTE.—See note to Section 18.

11. When any person named in any order made under section three, section four, or section seven, appears to be from sickness or other infirmity unfit to be removed, the officer in charge of the jail in which he is confined shall apply to the Magistrate of the district or division of a district in which such jail is situate, and if such Magistrate shall by writing under his hand declare himself to be of opinion that such person is from infirmity unfit to be removed;

or when any person named in any such order is under committal for trial;

or under a remand pending trial or pending a preliminary investigation;

or when any such person is in custody for a period which would expire before the expiration of the time required for removing him under this Act and for taking him back to the jail in which he is confined;

then and in every such case the officer in charge of the jail shall abstain from obeying such order, and shall send to the Court from which the order has been issued, a statement of his reason for not obeying the same:

Provided that the said officer shall not so abstain when the order has been made under section three, and the person named in the order is confined under committal for trial, or under a remand pending trial or pending a preliminary investigation, and does not appear to be from sickness or other

infirmity unfit to be removed, and the place where his evidence is required is not more than five miles distant from the jail in which he is confined.

PART III.

COMMISSIONS.

12. Whenever it shall appear to any civil Court that the evidence of a person confined in any jail situate within the local limits of the appellate jurisdiction of such Court, if it be a High Court, or if it be not a High Court, then within the local limits of the appellate jurisdiction of the High Court to which it is subordinate, who, for any of the causes mentioned in section ten or section eleven cannot be brought up before it, is material in any matter depending before such Court,

and whenever it shall appear to any Court that the evidence of a person confined in any jail so situate and more than ten miles distant from the place at which such Court is held, is material in any such matter,

and in any case in which the District Judge shall, under section five have declined to countersign the order for removal,

the Court may, if it think fit, issue a commission under the provisions of the Code of Civil Procedure for the examination of such person in the jail in which he is confined.

13. Whenever it shall appear to any High Court that the evidence of a person confined in a jail situate beyond the local limits of its appellate jurisdiction is material in any civil matter depending before such Court, or before any Court subordinate thereto, the High Court may, if it think fit, issue a commission under the provisions of the Code of Civil Procedure for the examination of such person in the jail in which he is confined.

14. Every commission issued under section twelve or section thirteen shall be directed to the district Court of the district wherein the jail in which such person is confined is situate, and such Court shall commit the execution of the commission to the officer in charge of such jail or to such other person as the Court thinks fit.

PART IV.

SERVICE OF PROCESS ON PRISONERS.

15. When any process directed to any person confined in any jail is issued from any Court, the same may be served by exhibiting to the officer in charge of such jail or prison the original of such process, and by depositing with him a copy thereof.

16. Every officer in charge of a jail upon whom any such service as is mentioned in section fifteen shall be made, shall, as soon as may be, cause the copy of the process so deposited with him to be shown and explained

to the prisoner to whom it is directed, and shall thereupon endorse upon such process a certificate signed by him that the prisoner to whom the process is directed is a prisoner in the jail under his charge, and that he has received a copy thereof.

Such certificate shall be sufficient *prima facie* evidence of the service of such process ; and if the prisoner requests that the said copy be sent to any other person, and provides the cost of so sending it, the said officer shall cause the same to be so sent through the Post Office by registered letter.

NOTE.—Act X of 1877 repeals so much of the above two sections as relates to process issued by a Civil Court.

PART V.

MISCELLANEOUS.

17. No order in any civil matter shall be made by a Court under any of the provisions hereinbefore contained until the amount of the costs and charges of the execution of such order (to be determined by the Court) is deposited in such Court :

Deposit of costs.

Provided that, if upon any application for such order it appear to the Court to which the application is made that the applicant has not sufficient means to meet the said costs and charges, the Court may pay the same out of any fund applicable to the contingent expenses of such Court, and every sum so expended may be recovered by Government from any person ordered by the Court to pay the same, as if it were costs of suit recoverable under the Code of Civil Procedure.

18. It shall be lawful for the Local Government, and in cases arising under section eight, for the Governor-General of India in Council, to make rules consistent with this Act,

Power to make rules.

(1) for regulating the escort of prisoners to and from the Court in which their presence is required ;

(2) for regulating the amount to be allowed for the costs and charges of such escorts ; and

(3) for the guidance of officers in all other matters connected with the enforcement of this Act ;

and from time to time to alter and add to the rules so made.

NOTE.—The following revised Rules, made under Section 18 of Act XV of 1869 (The Prisoners' Testimony Act), have received the sanction of the Hon'ble the Lieutenant-Governor and are published for general information :—

RULES.

1. Upon delivery of any order duly made under the Prisoners' Testimony Act, 1869, to the officer in charge of a jail, such officer shall, unless such order may be, and is disobeyed under the provisions of Section 11, send a copy of such order to the District Superintendent of Police in whose jurisdiction such jail is situated.

Copy of order to be furnished to District Superintendent of Police.

2. Such District Superintendent of Police shall be responsible for providing the escort hereinafter described, and for the safe custody of the person named in such order until he is re-delivered to jail.

Who is responsible for escort and safe custody.

Scale of escort.

3. The scale of escort shall be as follows :—

(a). When the journey is made by rail—

- 1 to 2 prisoners, 2 Constables.
- 3 to 6 prisoners, 1 Sergeant and 2 Constables.
- 7 to 9 prisoners, 1 Sergeant and 4 Constables.

(b). When the journey is made on the Grand Trunk Road—

- 1 to 2 prisoners, 2 Constables.
- 3 to 6 prisoners, 4 ditto.
- 7 to 9 prisoners, 1 Sergeant and 5 Constables.

(c). When the journey is made on a district road—

- 1 to 2 prisoners, 2 Constables.
- 3 to 6 prisoners, 1 Sergeant and 3 Constables.
- 7 to 9 prisoners, 1 Sergeant and 5 Constables.

Discretion allowed to District Superintendent of Police.

Provided that, if the prisoner or prisoners to be removed is or are desperate or dangerous characters, the District Superintendent of Police furnishing the escort may increase the strength at his discretion.

4. Prisoners under sentence for an offence shall be handcuffed before being removed from jail, and shall continue handcuffed, except when in Court or in a lock-up or jail. Desperate or dangerous prisoners shall be handcuffed in Court (unless the Court expressly orders to the contrary).

Treatment of criminal prisoners.

5. The Courts before which persons removed from jail under the Prisoners' Testimony Act give evidence shall, whenever it is possible, return such persons to secure confinement before dark.

6. The Inspector-General of Prisons shall, from time to time, fix the scale of diet for prisoners removed under these rules, and the officer in charge of the escort shall provide that such prisoners receive diet as nearly as possible in accordance with such scale. Where the Court in which evidence is to be given is situated at the same station as the jail from which the prisoner is removed, the officer in charge of the jail shall supply the prisoner's food ready cooked.

When the Court as aforesaid is situated at a distance, the estimated cost of the prisoner's rations shall be paid to the officer in charge of the Police escort by the officer in charge of the jail.

7. When a prisoner, ordered to be removed under the Prisoners' Testimony Act, is, from disease or other cause, unable to walk, although not so ill as to be unfit to give evidence, suitable means of carriage shall be provided on a certificate under the hand of the Medical Officer of the jail from which he is removed.

Such carriage shall be provided and paid for by the Superintendent of the Jail from which such prisoner is removed.

8. When the Court in which evidence is to be given is situated at a station, other than the station at which the jail in which the prisoner to be removed is confined, such prisoner shall (subject to the provision of the last preceding rule) be removed as follows :—

- (a) Where there is a railway, by rail ; and
- (b) in all other cases, by marches, by road.

Provided that, when the evidence of such prisoner is urgently required, and the person at whose instance the prisoner is removed deposits in advance all the costs of such transit for such prisoner and escort, such prisoner may be forwarded by ekka, horse-dak, or other mode of conveyance which may be deemed suitable.

9. When the police escort halts en route to the Court in which evidence is to be given, prisoners shall be confined in a police lock-up ; and at the station of destination prisoners shall be confined either in the magisterial lock-up, or in the local jail, as may be most convenient.

What expenses to be costs in the case.

10. When a prisoner is removed from jail to give evidence before a Civil Court, the following expenses shall be costs in the case :—

- (a). The salaries of the escort, calculated at six annas *per diem* for each Constable, and 10 annas *per diem* for each Sergeant ;
- (b). diet expense of such prisoner ; and—
- (c). conveyance, railway or other transit charges of such prisoner and the escort.

11. When an application in a civil suit is made for the attendance of a prisoner to give evidence before a Court, the person applying for such attendance shall, if the Court sanctions the application, pay into Court, previous to any orders for the prisoner's attendance being issued, the sum which is calculated by the Court to cover the costs of his conveyance, diet and escort, in accordance with Rule 10, and the rates prescribed in previous rules. Unless such costs be paid into Court by the party desiring the attendance of the prisoner, no orders for his attendance shall be made.

When such costs are lodged in Court as aforesaid, and an order is made for the removal of the prisoner whose evidence is sought, that portion of the estimated charge due for the police escort and for jail or road charges, other than under Rule 7, shall be paid to the District Superintendent of Police, and that for diet and conveyance of the prisoner, under Rule 7, to the Superintendent of the jail from which he is despatched.

12. Should the sum estimated by the Court fall short of the actual costs, it shall be the duty of the District Superintendent of Police or Superintendent of the Jail concerned, or of both (as the case may be), to submit to the Court a bill or bills for the excess payments.

Should the sum estimated by the Court exceed the actual costs, it shall be the duty of the District Superintendent of Police furnishing the escort to refund the excess payment to such Court.

These rules shall, so far as may be, govern the cases of prisoners removed under Section 8 of the Prisoners' Testimony Act.

13. No State prisoners may be moved from jails under the provisions of the Prisoners' Testimony Act.—(Notification No. 1042, dated 28th March 1879—Punjab Gazette of 3rd April 1879).

19. All such rules, alterations and additions shall be published in the official Gazette, and shall, from the date of such publication, be deemed to have the force of law.

20. The Local Government may also declare in each case what officer shall, for the purposes of this Act, be deemed to be 'the officer in charge of the jail.'

NOTE.—This Act is declared to be in force throughout the whole of British India, except the Scheduled Districts, by Act XV of 1874. It has also been declared to be in force in certain of the Scheduled Districts of the Punjab (*vide* Notes (a) and (b) to Act XIV of 1874).

SCHEDULE A.

Court of
To the officer in charge of the (*state name of jail*)
You are hereby required to have the body of _____, now a prisoner in _____ under
safe and sure conduct before the _____ at _____ on the _____ day of _____ next by _____ of the
clock in the forenoon of the same day, there to give testimony in a cause now pending before
[or in a certain charge or prosecution now pending before _____ against _____ or as the case may
be] and after the said _____ shall then and there have given his testimony before
the said _____ or the said _____ shall dispense with his further attendance, cause
him to be conveyed under safe and sure conduct back to the said jail.
day of _____

A. B.

(Countersigned) C. D.

SCHEDULE B.

Court of
To the officer in charge of the (*state name of jail*).
You are hereby required to have the body of _____, now a prisoner in _____ under safe and
sure conduct before the _____ at _____ on the _____ day of _____ next by _____ of the clock

in the forenoon of the same day, there to answer a charge now pending before and, after such charge shall have been disposed of, or the said shall dispense with his further attendance, cause him to be conveyed under safe and sure conduct back to the said jail.
day of

A. B.

(Countersigned) C. D.

ACT No. XX of 1869.

(Passed on the 10th September 1869).

An Act to provide for the good order and discipline of Volunteer Corps, and to invest them with certain powers.

Whereas many loyal subjects of Her Majesty have volunteered their services for the protection of life and property and the preservation of the peace, and have with the sanction of Government associated and enrolled themselves as military corps under the command of officers appointed for that purpose; and it is expedient to provide for the good order and discipline of such corps, and to invest their members with certain powers; It is hereby enacted as follows:

Preliminary.

Short title. 1. This Act may be called "The Indian Volunteers' Act, 1869."

Extent of Act. 2. This Act shall extend to the whole of British India and (so far as regards British subjects) to the dominions of Native Princes and States in alliance with Her Majesty.

3. *Repealed by Act XIV of 1870.*

Magistrate. 4. In this Act "Magistrate" means, within the limits of the Presidency Towns, a Magistrate of Police, and, without those limits, a person exercising the full powers of a Magistrate.

Formation and Dissolution of Volunteer Corps.

Formation of Corps. 5. Corps of Volunteers may, with the sanction of the Governor-General of India in Council, or of the Local Government, be formed in any part of British India or of the said dominions.

Certificate of commanding officer to be evidence of enrolment. 6. A certificate of enrolment, in such corps, signed by the commanding officer thereof, shall be *prima facie* evidence of such enrolment.

Power to disband corps or remove members. 7. The Governor-General of India in Council or the Local Government may disband any corps formed or enrolled under the provisions of this Act, or of Act XXIII of 1857, or remove from such corps any member thereof.

Application of Articles of War.

Volunteers subject to Articles of War so far as they apply to officers. 8. Every member of a corps of Volunteers shall, for all military offences of which he shall be guilty whilst on actual duty or on parade, be subject to the Articles of War for the time being in force for the better government of Her Majesty's Army, so far as the same are applicable to officers and consistent with the provisions of this Act:

Proviso.

Provided that no such member shall for any offence against the said Articles be subject to the punishment of death.

Courts Martial.

9. General Courts Martial shall be convened and appointed by the commanding officer of the corps, with the sanction of the Local Government, for the trial of military offences of which any member of such corps shall be guilty whilst on actual duty.

No sentence of such Court Martial shall be put into execution until after a report of the whole proceedings shall have been made to, and the sentence shall have been confirmed by, the Local Government.

The Local Government may commute any such sentence for a less punishment, or pardon the offender.

10. General Courts Martial shall consist of not less than nine members of the corps, and every member of the corps, whether an officer or not, shall be competent to sit and act as a member of such Court Martial.

11. Regimental Courts Martial may be convened by the commanding officer of the corps, and shall consist of not less than three members of the corps.

12. The proceedings of Courts Martial convened under this Act shall be conducted according to the laws and customs applicable to Courts Martial held under the said Articles of War, except so far as the same are inconsistent with the provisions of this Act.

Withdrawal from Corps.

13. Any person enrolled as a member of a corps of Volunteers, whether he shall have been elected or commissioned as an officer in such corps or not, may, except whilst on actual duty, quit the corps upon giving to the officer commanding the corps seven days' previous notice in writing of his intention so to do, or without such notice if the commanding officer of the corps shall consider it reasonable and allow him so to do.

14. Every commission to any member of a corps of Volunteers appointing him an officer in such corps shall cease upon his retirement or dismissal from the corps.

15. Every member of a corps of Volunteers who shall have received any arms, ammunition, accoutrements, or uniform belonging to Government, or which shall have been furnished from the public stores, or at the public expense, shall, upon his quitting such corps,

or upon his dismissal therefrom,

or whenever he shall be required so to do by the commanding officer of the corps,

or whenever the corps shall be disbanded,

deliver up to the commanding officer or such person as he shall appoint to receive the same, all such arms, ammunition, accoutrements, and uniform in good order and condition, reasonable wear thereof only excepted ;

and in default thereof he shall pay such sum of money as shall be adjudged by a Regimental Court Martial to be assembled for that purpose by the commanding officer of the corps. A copy of such adjudication, signed by the president of the Court Martial, shall be sent to the principal Court of original civil jurisdiction in the district in which the adjudication shall have been given, and shall be executed by such Court as if it were a decree for money under the Code of Civil Procedure.

Local limits of Service.

16. No member of a corps of Volunteers shall be bound, without his consent, to serve or proceed on duty beyond the limits within which he shall have voluntarily engaged to serve or proceed on duty in accordance with the terms upon which the corps to which he belongs shall have been constituted ; and in case no such limits shall have been fixed, he shall not be liable to serve or proceed on duty beyond four miles from the place at which he was enrolled.

No member bound to serve beyond certain distance.

Rules.

17. The commanding officer of every corps of Volunteers may frame such general rules as he may think fit for regulating the times at which and the manner in which the duties of the corps and of the several members or detachments thereof shall be discharged.

Commanding officer to frame rules, which shall be binding on the members.

Such rules, when sanctioned by the Local Government, shall be binding on the corps and on the several members thereof.

Penalties.

18. If any member of a corps of Volunteers, being warned for actual duty other than drill or parade, shall, without reasonable excuse, neglect to attend such duty, he shall be liable, upon conviction by a General Court Martial, to a fine not exceeding one hundred rupees, or to simple dismissal from the corps, or to dismissal from the corps as unworthy to belong to it.

Not attending actual duty other than drill or parade.

19. If any member of such corps shall without reasonable excuse neglect to attend drill or parade at such time as may be appointed for that purpose,

Not attending drill or parade.

or shall be guilty of any neglect of duty or other military offence which in the judgment of the commanding officer of the corps will be sufficiently punished by a small fine

Other minor military offence.

he shall be liable to pay such fine, not exceeding fifty rupees, as a Regimental Court Martial shall impose.

20. If any member of such corps shall neglect or refuse to pay any fine to which he shall be sentenced by Court Martial, within such time as shall be fixed by the commanding officer of the corps, he may be dismissed by the said commanding officer from the said corps ; and every such dismissal shall be recorded and reported to the Local Government.

Punishment for non-payment of fine.

21. Whoever assaults or resists, or abets within the meaning of the Indian Penal Code any person in assaulting or resisting Volunteers in discharge of their duty, shall be punishable, on conviction before a Magistrate, with fine not exceeding two hundred rupees, or with imprisonment for any term not exceeding six months, or with both.

22. In default of payment of any fine imposed by a Court Martial under this Act, a copy of the sentence of the Court Martial imposing the fine, signed by the president of such Court, may be sent to a Magistrate in the presidency town or the district in which the fine shall have been imposed, who shall thereupon cause the fine to be recovered as if he had himself imposed it.

Fines imposed under section twenty-one may be recovered, if for offences committed outside the limits of the presidency towns, in the manner prescribed by the Code of Criminal Procedure, and if for offences committed within those limits, in the manner prescribed by any Act regulating the police of such towns in force for the time being.

Powers of Volunteers.

23. Any member of a corps of Volunteers, whenever he may be in discharge of his duty as member of the corps, and wheresoever he may then be, may disarm any person not being in Her Majesty's military or naval service or a police officer, found between sunset and sunrise in any public street, thoroughfare, or other public place, armed with a sword, spear, gun, or other warlike instrument, without a pass or license for that purpose from the Commissioner of Police or other officer authorized by Government to grant the same;

and may also disarm any person found armed at any time contrary to law or to any order of Government in any public street, thoroughfare, or other public place ;

And to apprehend and deliver to police. and may also apprehend and deliver over to a police officer any person so found armed in order that he may be dealt with according to law ;

Forfeiture of weapons seized. and the weapon so seized shall be forfeited to Government or otherwise dealt with according to law, or to the orders of Government.

24. Any member of such corps, whenever he is on duty, may prevent any disturbance of the public peace, and disperse any persons who he may find assembled together to the number of five or more without reasonable cause between sunset and sunrise in any public street, thoroughfare, or other public place in which such member of the said corps may be in the discharge of his duty,

and may also apprehend any person reasonably suspected of having committed or being about to commit any offence against the State, or having abetted within the meaning of the Indian Penal Code, or being about to abet, any other person in the commission of such offence ; and deliver him over to some police officer.

Miscellaneous.

25. Every mounted officer, and every mounted orderly of a corps of Volunteers, and every member of such corps while he belongs to a troop of cavalry in such corps, shall be at liberty to keep one horse without being liable to pay in respect thereof any municipal or other tax imposed upon horses.

26. No suit or other proceeding shall be commenced or prosecuted against any person for anything done in pursuance of this Act, without giving to such person a month's previous notice in writing of the intended proceeding, and of the cause thereof, nor after the expiration of three months from the accrual of the cause of suit or other proceeding.

NOTES.—(a) So much of the last section as relates to the limitation of suits is repealed by Act IX of 1871.

(b) A Code of Regulations for the Volunteer forces in India has been framed by order of the Governor-General in Council, and was published in a separate form and circulated by the Military Department, G. O. No. 1203 of 1874, dated 1st December 1875.

(c) Clause 39 of Army Circulars, dated 1st February 1879, is declared applicable to India, and is to be embodied in the India Volunteer Regulations, as Article 76A—(*Gazette of India, Notification No. 484, dated 7th June 1879*).

ACT No. 1 of 1870.

(Passed on the 14th January 1870).

An Act to provide Rules relating to Quarantine.

Whereas it is expedient to empower expressly the Governor-General of India in Council and the Local Governments to make rules relating to quarantine; It is hereby enacted as follows:—

1. It shall be lawful for the Governor-General of India in Council and (with the previous sanction of the said Governor-General in Council) for the Local Governments respectively, from time to time, to make rules—

for putting any vessel into a state of quarantine ;
for regulating the intercourse of vessels in a state of quarantine with the shore, or with other vessels ; and
for regulating the intercourse between ports where an infectious disease prevails and other ports.

2. All such rules shall be published in the *Gazette of India*, and also in the local *Gazette*, and shall thereupon be deemed to be rules made and promulgated under Section 271 of the Indian Penal Code.

NOTE.—This Act has been declared to be in force throughout the whole of British India, except the Scheduled Districts, by Act XV of 1874. It has been declared not to be in force in the Scheduled Districts of Lahul (*vide* Note (b) to Act XIV of 1874).

ACT No. VII of 1870.*(Passed on the 11th March 1870).***CHAPTER I.****PRELIMINARY.**

Short title. 1. This Act may be called "The Court Fees Act, 1870."

Extent of Act. It extends to the whole of British India ;

Commencement of Act. And it shall come into force on the first day of April 1870.

2. *Repealed by Act XIV of 1870.*

CHAPTER II.**FEES IN THE HIGH COURTS AND IN THE COURTS OF SMALL CAUSES AT THE PRESIDENCY TOWNS.**

3. The fees payable for the time being to the clerks and officers (other than the sheriffs and attorneys) of the High Courts established by Letters Patent, by virtue of the power conferred by Statute twenty-fourth and twenty-fifth of Victoria, chapter one hundred and four, section fifteen,

or chargeable in each of such Courts under No. eleven of the first, and Nos. seven, twelve, fourteen, sixteen, twenty and twenty-one of the second schedule to this Act annexed ;

and the fees for the time being chargeable in the Courts of Small Causes at the presidency towns and their several offices ;

shall be collected in manner hereinafter appearing.

NOTE.—The fees referred to in this section shall be denoted by adhesive stamps only.—*(Government of India Notification No. 1678, dated 18th July 1873—Punjab Gazette of 24th idem).*

4. No document of any of the kinds specified in the first or second schedule to this Act annexed, as chargeable with fees, shall be filed, exhibited or recorded in, or shall be received or furnished by, any of the said High Courts in any case coming before such Court in the exercise of its extraordinary original civil jurisdiction ;

or in the exercise of its extraordinary original criminal jurisdiction ;

or in the exercise of its jurisdiction as regards appeals from the judgment of two or more judges of the said Court, or of a Division Court ;

or in the exercise of its jurisdiction as regards appeals from the Courts subject to its superintendence ;

or in the exercise of its jurisdiction as a Court of reference or revision ;

unless in respect of such document there be paid a fee of an amount not less than that indicated by either of the said schedules as the proper fee for such document.

5. When any difference arises between the officer whose duty it is to

Procedure in case of see that any fee is paid under this chapter and any difference as to necessity of fee or the amount thereof, the question shall, when the difference arises in any of the said High Courts, be referred to the taxing-officer, whose decision thereon shall be final, except when the question is, in his opinion, one of general importance, in which case he shall refer it to the final decision of the Chief Justice of such High Court, or of such Judge of the High Court as the Chief Justice shall appoint either generally or specially in this behalf.

When any such difference arises in any of the said Courts of Small Causes, the question shall be referred to the Clerk of the Court, whose decision thereon shall be final, except when the question is, in his opinion, one of general importance, in which case he shall refer it to the final decision of the first Judge of such Court.

The Chief Justice shall declare who shall be taxing-officer within the meaning of the first paragraph of this section.

CHAPTER III.

FEES IN OTHER COURTS AND IN PUBLIC OFFICES.

6. Except in the Courts hereinbefore mentioned, no document of any

Fees on documents filed, &c., in Mofussil Courts or in public offices.

of the kinds specified as chargeable in the first or second schedule to this Act annexed shall be filed, exhibited or recorded in any Court of Justice, or shall be received or furnished by any public officer, unless in respect of such document there be paid a fee of an amount not less than that indicated by either of the said schedules as the proper fee for such document.

Computation of fees payable in certain suits.

7. The amount of fee payable under this Act in the suits next hereinafter mentioned shall be computed as follows:—

i. In suits for money (including suits for damages or compensation, or arrears of maintenance, of annuities, or of other sums payable periodically)—according to the amount claimed:

ii. In suits for maintenance and annuities or other sums payable periodically—according to the value of the subject-matter of the suit, and such value shall be deemed to be ten times the amount claimed to be payable for one year:

iii. In suits for moveable property other than money, where the subject-matter has a market-value—according to such value at the date of presenting the plaint:

iv. In suits—
for moveable property of no market-value:

(a) for moveable property where the subject-matter has no market-value, as, for instance, in the case of documents relating to title,

to enforce a right to share in joint family property:

(b) to enforce the right to share in any property on the ground that it is joint family property.

for a declaratory decree and consequential relief:

(c) to obtain a declaratory decree or order where consequential relief is prayed,

for an injunction:

(d) to obtain an injunction,

for easements:

(e) for a right to some benefit (not herein otherwise provided for) to arise out of land, and

for accounts:

(f) for accounts—

according to the amount at which the relief sought is valued in the plaint or memorandum of appeal.

In all such suits the plaintiff shall state the amount at which he values the relief sought, and the provisions of the Code of Civil Procedure, section thirty-one, shall apply as if, for the word 'claim,' the words 'relief sought' were substituted.

for possession of land, houses and gardens.

v. In suits for the possession of land, houses and gardens—according to the value of the subject-matter; and such value shall be deemed to be—

where the subject-matter is land, and—

(a) where the land forms an entire estate, or a definite share of an estate paying annual revenue to Government,

or forms part of such an estate and is recorded in the Collector's register as separately assessed with such revenue,

and such revenue is permanently settled—

ten times the revenue so payable:

* (b) where the land forms an entire estate, or a definite share of an estate paying annual revenue to Government, or forms part of such estate and is recorded as aforesaid;

and such revenue is settled, but not permanently—

five times the revenue so payable:

(c) where the land pays no such revenue, or has been partially exempted from such payment, or is charged with any fixed payment in lieu of such revenue,

and net profits have arisen from the land during the year next before the date of presenting the plaint—

fifteen times such net profits:

but where no such net profits have arisen therefrom—the amount at which the Court shall estimate the land with reference to the value of similar land in the neighbourhood:

(d) where the land forms part of an estate paying revenue to Government, but is not a definite share of such estate and is not separately assessed as above mentioned—the market-value of the land:

Provide as to Bombay Presidency.

Provided that, in the territories subject to the Governor of Bombay in Council, the value of the land shall be deemed to be—

(1) where the land is held on settlement for a period not exceeding thirty years and pays the full assessment to Government—a sum equal to five times the survey-assessment ;

(2) where the land is held on a permanent settlement, or on a settlement for any period exceeding thirty years, and pays the full assessment to Government—a sum equal to ten times the survey-assessment ; and

(3) where the whole or any part of the annual survey-assessment is remitted—a sum computed under paragraph (1) or paragraph (2) of this proviso, as the case may be, in addition to ten times the assessment, or the portion of assessment, so remitted :

Explanation.—The word 'estate' as used in this paragraph, means any land subject to the payment of revenue, for which the proprietor or a farmer or ryot shall have executed a separate engagement to Government, or which in the absence of such engagement, shall have been separately assessed with revenue.

for houses and gardens : (e) Where the subject-matter is a house or garden—according to the market-value of the house or garden.

vi. In suits to enforce a right of pre-emption—according to the value to enforce a right of pre-emption : (computed in accordance with paragraph v of this section) of the land, house or garden in respect of which the right is claimed :

vii. In suits for the interest of an assignee of land-revenue—fifteen times for interest of assignee of land-revenue : his net profits as such for the year next before the date of presenting the plaint :

viii. In suits to set aside an attachment of land or of an interest in land to set aside an attachment : or revenue—according to the amount for which the land or interest was attached :

Provided that, where such amount exceeds the value of the land or interest, the amount of fee shall be computed as if the suit were for the possession of such land or interest :

to redeem : ix. In suits against a mortgagee for the recovery of the property mortgaged,

to foreclose : and in suits by a mortgagee to foreclose the mortgage,

or, where the mortgage is made by conditional sale, to have the sale declared absolute—

according to the principal money expressed to be secured by the instrument of mortgage :

for specific performance : x. In suits for specific performance—

(a) of a contract of sale—according to the amount of the consideration :

(b) of a contract of mortgage—according to the amount agreed to be secured :

(c) of a contract of lease—according to the aggregate amount of the fine or premium (if any) and of the rent agreed to be paid during the first year of the term :

(d) of an award—according to the amount or value of the property in dispute :

between landlord and tenant.

xi. In the following suits between landlord and tenant :—

- (a) for the delivery by a tenant of the counterpart of a lease,
- (b) to enhance the rent of a tenant having a right of occupancy,
- (c) for the delivery by a landlord of a lease,
- (d) to contest a notice of ejectment,
- (e) to recover the occupancy of land from which a tenant has been illegally ejected by the landlord, and
- (f) for abatement of rent—

according to the amount of the rent of the land to which the suit refers, payable for the year next before the date of presenting the plaint.

8. The amount of fee payable under this Act on a memorandum of appeal against an order relating to compensation.
Fee on memorandum of appeal against order relating to compensation.
 appeal against an order relating to compensation under any Act for the time being in force for the acquisition of land for public purposes, shall be computed according to the difference between the amount awarded and the amount claimed by the appellant.

9. If the Court sees reason to think that the annual net profits or the market-value of any such land, house or garden as is mentioned in section seven, paragraphs five and six, have or has been wrongly estimated, the Court may for the purpose of computing the fee payable in any suit therein mentioned, issue a commission to any proper person directing him to make such local or other investigation as may be necessary, and to report thereon to the Court.

10. i. If in the result of any such investigation, the Court finds that the net profits or market-value have or has been wrongly estimated, the Court, if the estimation has been excessive, may in its discretion refund the excess paid as such fee : but if the estimation has been insufficient, the Court shall require the plaintiff to pay so much additional fee as would have been payable had the said market-value or net profits been rightly estimated :

ii. In such case the suit shall be stayed until the additional fee is paid. If the additional fee is not paid within such time as the Court shall fix, the suit shall be dismissed ;

iii. Section one hundred and eighty of the Code of Civil Procedure shall be construed as if the words the 'market-value of any property or' were inserted after the word 'ascertaining,' and as if the words 'or annual net profits' were inserted after the word, 'damages.'

11. In suits for mesne profits or for immoveable property and mesne profits, or for an account, if the profits or amount decreed are or is in excess of the profits claimed or the amount at which the plaintiff valued the relief sought, the decree shall not be executed until the

Procedure in suits for mesne profits or account when amount decreed exceeds amount claimed.

difference between the fee actually paid and the fee which would have been payable, had the suit comprised the whole of the profits or amount so decreed, shall have been paid to the proper officer.

Where the amount of mesne profits is left to be ascertained in the course of the execution of the decree, if the profits so ascertained exceed the profits claimed, the further execution of the decree shall be stayed until the difference between the fee actually paid and the fee which would have been payable had the suit comprised the whole of the profits so ascertained is paid. If the additional fee is not paid within such time as the Court shall fix, the suit shall be dismissed.

12. i. Every question relating to valuation for the purpose of determining the amount of any fee chargeable under this chapter on a plaint or memorandum of appeal, shall be decided by the Court in which such plaint or memorandum, as the case may be, is filed, and such decision shall be final as between the parties to the suit :

ii. But whenever any such suit comes before a Court of appeal, reference, or revision, if such Court considers that the said question has been wrongly decided, to the detriment of the revenue, it shall require the party by whom such fee has been paid to pay so much additional fee as would have been payable had the question been rightly decided, and the provisions of section ten, paragraph ii, shall apply.

13. If an appeal or plaint, which has been rejected by the lower Court on any of the grounds mentioned in the Code of Civil Procedure, is ordered to be received, or if a suit is remanded in appeal, on any of the grounds mentioned in section three hundred and fifty one of the same Code, for a second decision by the lower Court, the appellate Court shall grant to the appellant a certificate, authorizing him to receive back from the Collector the full amount of fee paid on the memorandum of appeal.

Provided that, if, in the case of a remand in appeal, the order of remand shall not cover the whole of the subject-matter of the suit, the certificate so granted shall not authorize the appellant to receive back more than so much fee as would have been originally payable on the part or parts of such subject-matter in respect whereof the suit has been remanded.

NOTE.—In supersession of the Notification by the Government of India in the Financial Department, No. 2509, dated 22nd August 1873, the Governor-General in Council is pleased to direct that when a plaint, disclosing a reasonable case on the merits, is presented to any Civil or Revenue Court in such a form that the presiding Judge or Officer without summoning the defendant rejects it, not for any substantial defect, but on account of an entirely technical error in form only, and so as to leave the plaintiff free to prosecute precisely the same case in another form against the same defendant or defendants, the value of the stamp on the plaint shall be refunded on presentation of an application to the Collector of the District in which the Court is situated, together with a certificate from the Judge or Officer who rejected the plaint that it was rejected under the circumstances above described, and that the value of the stamp should, in his opinion, be refunded.—(Notification No. 2768, dated 30th April 1874—Gazette of India of 2nd May 1874, and Punjab Gazette of 7th idem)

14. Where an application for a review of judgment is presented on or after the ninetieth day from the date of the decree, the Court, unless the delay was caused by the applicant's laches, may, in its discretion, grant him a certificate authorizing him to receive back from the Collector so much of the fee paid on the application as exceeds the fee which would have been payable had it been presented before such day.

15. Where an application for review of judgment is admitted, and where, on the rehearing, the Court reverses or modifies its former decision on the ground of mistake in law or fact, the applicant shall be entitled to a certificate from the Court authorizing him to receive back from the Collector so much of the fee paid on the application as exceeds the fee payable on any other application to such Court under the second schedule to this Act, No. one, clause (b) or clause (d).

But nothing in the former part of this section shall entitle the applicant to such certificate where the reversal or modification is due, wholly or in part, to fresh evidence which might have been produced at the original hearing.

NOTE.—As amended by Act XX of 1870.

16. When any appeal is presented to a civil Court, not against the whole of a decision, but only against so much thereof as relates to a portion of the subject-matter of the suit, and on the hearing of such appeal, the respondent takes under section three hundred and forty-eight of the Code of Civil Procedure, on objection to any part of the said decision other than the part appealed against, the Court shall not hear such objection until the respondent shall have paid the additional fee which would have been payable had the appeal comprised the part of the decision so objected to.

17. Where a suit embraces two or more distinct subjects, the plaintiff or memorandum of appeal shall be chargeable with the aggregate amount of the fees to which the complaints or memoranda of appeal in suits embracing separately each of such subjects would be liable under this Act.

Nothing in the former part of this section shall be deemed to affect the power conferred by the Code of Civil Procedure, section nine.

18. When the first or only examination of a person who complains of the offence of wrongful confinement, or of wrongful restraint, or of any offence other than an offence for which police officers may arrest without a warrant, and who has not already presented a petition on which a fee has been levied under this Act, is reduced to writing under the provisions of the Code of Criminal Procedure, the complainant shall pay a fee of eight annas, unless the Court thinks fit to remit such payment.

19. Nothing contained in this Act shall render the following documents chargeable with any fee:—

- i. Power-of-attorney to institute or defend a suit when executed by an officer, warrant-officer, non-commissioned officer or private of Her Majesty's army not in civil employment.
- ii. Declarations mentioned in section one hundred and eighteen and section one hundred and sixty-four of the Code of Civil Procedure
- iii. Written statements called for by the Court after the first hearing of a suit.

- iv. **Plaint presented to a Military Court of Requests and petition for execution of a decree of such Court.**
- v. **Plaints in suits tried by Village Munsifs in the Presidency of Fort St. George.**
- vi. **Plaints and processes in suits before District Panchayats in the same Presidency.**
- vii. **Plaints in suits before Collectors under Madras Regulation XII of 1816.**
- viii. **Probate of a will, letters of administration, and certificate mentioned in the first schedule to this Act annexed, No. twelve, where the amount of value of the property in respect of which the probate or letters or certificate shall be granted does not exceed one thousand rupees.**
- † ix. **Application or petition to a Collector or other officer making a settlement of land-revenue, or to a Board of Revenue, or a Commissioner of Revenue, relating to matters connected with the assessment of land, or the ascertainment of rights thereto or interests therein, if presented previous to the final confirmation of such settlement.**
- x. **Application relating to a supply for irrigation of water belonging to Government.**
- * xi. **Application for leave to extend cultivation, or to relinquish land, when presented to an officer of land revenue by a person holding, under direct engagement with Government, land of which the revenue is settled but not permanently.**
- xii. **Application for service of notice of relinquishment of land or of enhancement of rent.**
- xiii. **Written authority to an agent to distrain.**
- xiv. **First application (other than a petition containing a criminal charge or information) for the summons of a witness or other person to attend either to give evidence or to produce a document, or in respect of the production or filing of an exhibit not being an affidavit made for the immediate purpose of being produced in Court.**
- xv. **Bail-bonds in criminal cases, recognizances to prosecute or give evidence, and recognizances for personal appearance or otherwise.**
- xvi. **Petition, application, charge or information respecting any offence, when presented, made or laid to or before a Police officer or to or before the Heads of Villages or the Village Police in the territories respectively subject to the Governors in Council of Madras and Bombay.**
- xvii. **Petition by a prisoner, or other person in duress or under restraint of any Court or its officers.**
- xviii. **Complaint of a public servant (as defined in the Indian Penal Code), a municipal officer, or an officer or servant of a Railway Company.**

† See section 35, Note (v)

* See section 35, Note (u).

- xix. Application for permission to cut timber in Government forests or otherwise relating to such forests.
- xx. Application for the payment of money due by Government to the applicant.
- xxi. Petition of appeal against the chaukidari assessment under Act No. XX of 1856, or against any municipal tax.
- xxii. Applications for compensation under any law for the time being in force relating to the acquisition of property for public purposes.
- xxiii. Petitions presented to the special Commissioner appointed under Bengal Act No. II of 1869 (*to ascertain, regulate and record certain tenures in Chutia-Nagpore*).
- xxiv. Petitions under the Indian Christian Marriage Act, 1872, Sections 45 and 48. (*See Act XV of 1872, Section 2*).

NOTE.—Petitions, applications, memoranda of appeal, or other proceedings under Act XXIV of 1870, are also exempt.

* CHAPTER III A.

PROBATES, LETTERS OF ADMINISTRATION AND CERTIFICATES OF ADMINISTRATION.

19 A. Where any person on applying for the probate of a will or letters of administration has estimated the property of the deceased to be of greater value than the same has afterwards proved to be, and has consequently paid too high a Court-fee thereon, if within six months after the true value of the property has been ascertained; such person produces the probate or letters to the Chief Controlling Revenue Authority of the province in which the probate or letters has or have been granted,

and delivers to such Authority a particular inventory and valuation of the property of the deceased, verified by affidavit or affirmation,

and if such Authority is satisfied that a greater fee was paid on the probate or letters than the law required,

the said Authority may—

(a) cancel the stamp on the probate or letters, if such stamp has not been already cancelled ;

(b) substitute another stamp for denoting the Court-fee which should have been paid thereon; and

(c) make an allowance for the difference between them as in the case of spoiled stamps, or repay the same in money, at his discretion.

19 B. Wherever it is proved to the satisfaction of such Authority that an executor or administrator has paid debts due from the deceased to such an amount as, being deducted out of the amount or value of the estate, reduces the same to a sum which, if it had been the whole gross amount or value of the estate, would have occasioned a less Court-fee to be paid on the probate or letters of administration granted in respect of such estate, than has been actually paid thereon under this Act,

such Authority may return the difference, provided the same be claimed within three years after the date of such probate or letters.

But when, by reason of any legal proceeding, the debts due from the deceased have not been ascertained and paid, or his effects have not been recovered and made available, and in consequence thereof the executor or administrator is prevented from claiming the return of such difference within the said term of three years, the said Authority may allow such further time for making the claim as may appear to be reasonable under the circumstances.

19 C. Whenever such a grant of probate or letters of administration has been or is made in respect of the whole of the property belonging to an estate, and the full fee chargeable under this Act has been or is paid thereon, no fee shall be chargeable under the same Act when a like grant is made in respect of the whole or any part of the same property belonging to the same estate.

Relief in case of several grants.

Whenever such a grant has been or is made in respect of any property forming part of an estate, the amount of fees then actually paid under this Act shall be deducted when a like grant is made in respect of property belonging to the same estate, identical with or including the property to which the former grant relates.

19 D. The probate of the will, or the letters of administration of the effects, of any person deceased, heretofore or hereafter granted, shall be deemed valid and available by his executors or administrators for recovering, transferring or assigning any moveable or immoveable property whereof or whereto the deceased was possessed or entitled, either wholly or partially as a trustee, notwithstanding the amount or value of such property is not included in the amount or value of the estate in respect of which a Court-fee was paid on such probate or letters of administration.

19 E. Where any person on applying for probate or letters of administration has estimated the estate of the deceased to be of less value than the same has afterwards proved to be, and has in consequence paid too low a Court-fee thereon, the Chief Controlling Revenue Authority of the province in which the probate or letters has or have been granted, may, on the value of the estate of the deceased being verified by affidavit or affirmation, cause the probate or letters of administration to be duly stamped on payment of the full Court-fee which ought to have been originally paid thereon in respect of such value, and of the further penalty, if the probate or letters is or are produced within one year from the date of the grant, of five times, or if it or they is or are produced after one year from such date, of twenty times, such proper Court-fee, without any deduction of the Court-fee originally paid on such probate or letters:

Provided that, if the application be made within six months after the ascertainment of the true value of the estate and the discovery that too low a Court-fee was at first paid on the probate or letters, and if the said Authority

is satisfied that such fee was paid in consequence of a mistake or of its not being known at the time that some particular part of the estate belonged to the deceased, and without any intention of fraud or to delay the payment of the proper Court-fee, the said Authority may remit the said penalty, and cause the probate or letters to be duly stamped on payment only of the sum wanting to make up the fee which would have been at first paid thereon.

19 F. In case of letters of administration on which too low a Court fee has been paid at first, the said Authority shall not cause the same to be duly stamped in manner aforesaid until the administrator has given such security to the Court by which the letters of administration have been granted as ought by law to have been given on the granting thereof, in case the full value of the estate of the deceased had been then ascertained.

19 G. Where too low a Court-fee has been paid on any probate or letters of administration in consequence of any mistake, or of its not being known at the time that some particular part of the estate belonged to the deceased, if any executor or administrator acting under such probate or letters does not, within six months after the first day of April 1875, or after the discovery of the mistake, or of any effects not known at the time to have belonged to the deceased, apply to the said Authority and pay what is wanting to make up the Court-fee which ought to have been paid at first on such probate or letters, he shall forfeit the sum of one thousand rupees and also a further sum at the rate of ten rupees per cent. on the amount of the sum wanting to make up the proper Court-fee.

19 H: The provisions of Sections 19 A to 19 G (both inclusive) shall, *mutatis mutandis*, apply to certificates granted under Act No. XL of 1858 (for making better provision for the care of the person and property of Minors in the Presidency of Fort William in Bengal) or Act No. XX of 1864 (for making better provision for the care of the persons and property of Minors in the Presidency of Bombay) and to the holders of such certificates.

CHAPTER IV.

PROCESS FEES.

Rules as to costs of processes.

20. The High Court shall, as soon as may be, make rules as to the following matters :

i. the fees chargeable for serving and executing processes issued by such Court in its appellate jurisdiction, and by the other civil Courts established within the local limits of such jurisdiction :

Note.—The above clause has been amended by Act XVII, of 1878.

ii. the fees chargeable for serving and executing processes issued by the criminal Courts established within such limits in the case of offences other than offences for which police officers may arrest without a warrant; and

iii. the remuneration of the peons and all other persons employed by leave of a Court in the service or execution of processes.

The High Court may from time to time alter and add to the rules so made.

All such rules, alterations and additions shall, after being confirmed by the Local Government, and sanctioned by the Governor-General of India in Council, be published in the local official Gazette, and shall thereupon have the force of law.

Confirmation and publication of rules.

Until such rules shall be so made and published, the fees now leviable for serving and executing processes shall continue to be levied, and shall be deemed to be fees leviable under this Act.

NOTE.—The Rules made under this section will be found in Judicial Circular No. CXXXII, Parts I & II. See also Book Circular No. III of 1888.

21. A Table in the English and Vernacular languages, showing the fees chargeable for such service and execution, shall be exposed to view in a conspicuous part of each Court.

Table of process fees.

Number of peons in District and Subordinate Courts.

22. Subject to rules to be made by the High Court and approved by the Local Government and the Governor-General of India in Council,

every District Judge and every Magistrate of a District shall fix, and may from time to time alter, the number of peons necessary to be employed for the service and execution of processes issued out of his Court and each of the Courts subordinate thereto,

and for the purposes of this section, every Court of Small Causes established under Act No. XI of 1865 (*to consolidate and amend the law relating to Courts of Small Causes beyond the local limits of the ordinary original civil jurisdiction of the High Courts of Judicature*) shall be deemed to be subordinate to the Court of the District Judge.

Number of peons in Mofussil Small Cause Courts.

NOTE.—The rules made under Sections 22, 23, are contained in Judicial Circular No. CXXXII, Part III.

23. *Repealed by Act XVII of 1887.*

24. Every process served or executed under this chapter shall be held to be a process within the meaning of section one hundred and eighty-eight of the Code of Civil Procedure, and of section two of Act No. XXIII of 1861 (*to amend Act VIII of 1859*).

Process served under this chapter to be held process served under Civil Procedure Code. *

CHAPTER V.

OF THE MODE OF LEVYING FEES.

Collection of fees by stamps.

25. All fees referred to in section three or chargeable under this Act shall be collected by stamps.

26. The stamps used to denote any fee chargeable under this Act shall be impressed, or adhesive, or partly impressed and partly adhesive, as the Governor-General of India in Council may, by notification in the *Gazette of India*, from time to time direct.

NOTES.—(a). The following are published for general information :—

Simla, the 18th April 1883.

No. 361.—In exercise of the powers conferred by Sections 26 and 35 of the Court Fees Act, 1870, and of all other powers enabling him in this behalf, and in supersession of Notification by the Government of India in the Financial Department, No. 1520, dated 5th March 1875, and all other Notifications on the subject, the Governor-General in Council is pleased to issue the following directions :—

- I.—When in any case the fee chargeable under the said Act is less than Rs. 10, such fee shall be denoted by adhesive stamps only. Such adhesive stamps shall either be the adhesive stamps bearing the words " Court Fees," at present in use, or adhesive stamps of any different shape, size or pattern bearing the words " Court Fees " which may hereafter be issued for use, in supersession of, or in addition to, the adhesive stamps now in use.
- II.—When in any case the fee chargeable under the said Act amounts to or exceeds Rs. 10, such fee shall be denoted by impressed stamps bearing the words " Court Fees," adhesive stamps being only employed to make up fractions of less than Rs. 10.
- III.—If in any case the amount of the fee chargeable under the said Act involves a fraction of an anna, such fraction shall be remitted.
- IV.—This notification shall take effect on and after the 1st June 1883.

No. 2440.

GOVERNMENT OF INDIA.

DEPARTMENT OF FINANCE AND COMMERCE.

SEPARATE REVENUE, &c.

Stamps.

RESOLUTION.

Simla, the 2nd August 1883.

By Financial Notification No. 361, dated 18th April 1883, the Government of India prescribed the use of adhesive stamps for denoting Court fees amounting to less than Rs. 10, and impressed stamps for denoting fees amounting to or exceeding Rs. 10.

2. The Governor-General in Council desires that the public may be informed that impressed stamps of the value of Rs. 10 and upwards will be issued in exchange for unused adhesive stamps of equal value, by Treasury officers, on application being made to them within three months from the date of the publication of notice to that effect in the local Gazettes.

(Notification No. 55, dated 17th August 1883, *Punjab Gazette of 23rd idem, Part I, p. 488*).

(b). The following is published for general information, in continuation of *Punjab Government Gazette*, Notification No. 55, dated the 17th August 1883 :—

No. 3735.
GOVERNMENT OF INDIA.
DEPARTMENT OF FINANCE AND COMMERCE.
SEPARATE REVENUE, &c.
Stamps.
Judicial Stamps.
Sale and Supply of Stamps.

Simla, the 13th October 1883.

READ the following papers :—

Financial Resolution No. 2440, dated 2nd August 1883.

Letter from the Government of Madras, No. 1176, dated 24th September 1883.

Telegram to the Government of Madras, dated 6th October 1883.

RESOLUTION.—By Resolution No. 2440, dated 2nd August 1883, the Local Governments were authorized to allow the issue, in exchange for unused adhesive Court-fee stamps of the value of Rs. 10 and upwards, of the new impressed sheets of Court-fee stamps, if applied for within three months from the publication of notice to that effect in the Local Gazette.

The Governor-General in Council desires that the Local Government will issue instructions to the Treasury Officers to refund in cash the value of all such adhesive stamps, if the owners do not require impressed stamps in exchange, if application is made within the period already fixed by publication of notice under Resolution No. 2440 of 2nd August 1883.

(Punjab Government Notification No. 90, dated 2nd November 1883, Punjab Gazette of 8th idem, Part I, p. 615.

(c). In exercise of the powers conferred by Section, 26 and 35 of the Court Fees Act 1870, and of all other powers enabling him in this behalf, and in modification of Notification by the Government of India in the Financial Department No. 361, dated 18th April 1883, the Governor-General in Council is pleased to direct, that when in any case in the territories subject to the Lieutenant-Governor of the Punjab the fee chargeable under the said Act amounts to or exceeds Rs. 10, such fee may, up to the 1st July 1883, be denoted by the adhesive stamps bearing the words "Court Fees" at present in use.—(Government of India Notification No. 1511, dated 15th June 1883, Gazette of India of 16th idem).

(d). In exercise of the powers conferred by Section 26 of the Court Fees Act, 1870, the Governor-General in Council directs that the additional Court Fee payable under Section 19 of the said Act on Probates and Letters of Administration shall be denoted either—

(a) by impressed and adhesive stamps in the manner prescribed in Notification No. 361 of 18th April 1883; or

(b) wholly by adhesive stamps of the kind described in clause I of Notification No. 361 of 18th April 1883.

(Government of India No. 1522, dated 20th March 1885, Gazette of India of 21st idem).

Rules for supply, number
renewal and keeping
accounts of stamps.

27. The Local Government may, from time to time, make rules for regulating—

(a) the supply of stamps to be used under this Act,

(b) the number of stamps to be used for denoting any fee chargeable under this Act,

(c) the renewal of damaged or spoiled stamps, and

(d) the keeping accounts of all stamps used under this Act;

Provided that, in the case of stamps used under section three in a High Court, such rules shall be made with the concurrence of the Chief Justice of such Court.

All such rules shall be published in the local official Gazette, and shall the re-upon have the force of law,

NOTES.—(a). In supersession of the orders published in Notification of the Punjab Government No. 389, dated 14th February 1885, the following is published for general information:—

No. 132.

GOVERNMENT OF INDIA.

DEPARTMENT OF FINANCE AND COMMERCE.

SEPARATE REVENUE.

STAMPS.

Judicial, &c.

Sale, &c.

RESOLUTION.

Calcutta, the 11th January 1888.

READ—

Resolution of the Government of India in this Department, No. 2345, dated the 26th December 1884.

Letter to the Government of Bombay, No. 230, dated the 20th April 1885.

Letter from the Government of Madras, No. 953, dated the 30th September 1887.

RESOLUTION.—In supersession of all existing orders on the subject, the Governor-General in Council is pleased to authorise the refund of the value of impressed Court-fee Stamps and of Court-fee adhesive labels in accordance with the following rules:—

1.--(a) When any person is possessed of impressed Court-fee Stamps for which he has no immediate use, or which have been spoiled or rendered unfit or useless for the purpose intended, or

(b) When any person is possessed of two or more (or in the case of denominations below Rs. 5, four or more) Court-fee adhesive labels which have never been detached from each other and for which he has no immediate use, the Collector shall, on application, repay to him the value of such stamps or labels in money, deducting one anna in the rupee, upon such person delivering up the same to be cancelled and proving to the Collector's satisfaction that they were purchased by him with a *bond fide* intention to use them, that he has paid the full price thereof and that they were so purchased or, in the case of impressed Court-fee Stamps, so purchased, spoiled or rendered useless, within the period of six months preceding the date on which they are so delivered: Provided that Local Governments may, in special cases, allow refunds when application is made within one year from the date of purchase of the stamps or labels, or, also in the case of impressed Court-fee Stamps, within one year from the date on which the stamps were spoiled or rendered useless. The Local Governments may, at their discretion, delegate this power to any subordinate authority.

2. When a licensed vendor surrenders his license or dies, the Collector may, at his discretion, if he considers that the circumstances justify the application, repay to him or his representatives, as the case may be, the values of stamps and labels, not spoiled or rendered unfit for use, returned into the Collector's store, deducting one anna in the rupee, or he may issue stamps and labels of other values in exchange, provided that, in the case of adhesive Court-fee labels, their value may not be refunded, nor stamps and labels of other values issued in exchange, unless, in cases where the value of each label is not less than Rs. 5, there are at least two such labels which have never been detached from each other; and in cases where the value of each label is less than Rs. 5, unless there are at least four such labels which have never been detached from each other.

3. When adhesive labels are attached to impressed sheets of Court-fee Stamps in accordance with the directions contained in Notification by the Government of India in this Department, No. 361, dated the 18th April 1883, such labels should be regarded as impressed stamps for the purposes of refund under these rules.

(Punjab Government Notification No. 125, dated 24th January 1888, Punjab Gazette of 26th Jan., Part I, page 17).

(c). With reference to the Notification of the Government of India, in the Department of Finance and Commerce, No. 361, dated 18th April 1883, the Hon'ble the Lieutenant-Governor, under the authority vested in him by Section 27, clause (b) of Act VII. of 1870 (The Court-fee Act) is pleased to make the following rules for regulating the number of stamps to be used for denoting any fee chargeable under the said Act.

Punjab Government Notification No. 654, dated 10th April 1875, and rules 7 and 9 published under Punjab Government Notification No. 1362, dated 19th September 1870, are hereby superseded.

1. When in the case of fees amounting to less than Rs.10, the amount can be denoted by a single adhesive stamp, such fee shall be denoted by a single adhesive stamp of the required value; when the amount cannot be denoted by a single adhesive stamp, or when a single adhesive stamp of the required value is not available, an adhesive stamp of the next lower value available shall be used, and the deficiency shall be made up by the use of one or more additional adhesive stamps of the next lower values which may be required to make up the exact amount of the fee.

2. When in the case of fees amounting to or exceeding Rs. 10, the amount can be denoted by a single impressed stamp, such fee shall be denoted by a single impressed stamp of the required value; when the amount cannot be denoted by a single impressed stamp, or when a single impressed stamp of the required value is not available, an impressed stamp of the next lower value available shall be used, and the deficiency shall be made up by the use of one or more additional impressed stamps of the next lower values available which may be required to make up the fee, in combination with adhesive stamps to make up fractions of less than Rs. 10.

3. Adhesive stamps used in combination with impressed stamps under Rule 2, shall be affixed to the impressed stamp of the highest value employed in denoting the fee.

4. When two or more impressed stamps are used under Rule 2, a portion of the subject matter shall be attested on each impressed stamp so used, and the writing on each stamp shall be attested by the signature of the person or persons executing the document.

5. When one or more impressed stamps used to denote a fee are found insufficient to admit of the entire document being written on the side of the paper which bears the stamp, so much plain paper may be joined thereto as may be necessary for the complete writing of the document, and the writing on the impressed stamps and on the plain paper shall be attested by the signature of the person or persons executing the document.

(Notification No. 101, dated 29th November 1883, Punjab Gazette of 6th December, Part I, page 743).

(c).—The Hon'ble the Lieutenant-Governor is pleased, in exercise of the authority vested in him by Section 27, clause (c) of Act VII of 1870 (the Court Fees Act), to make the following rules for regulating the renewal of damaged or spoiled Court-fee stamps, in supersession of rules 10 to 13, published under Punjab Government Notification No.1362, dated 19th September 1870, and of all other rules on the subject :—

I.—For the purposes of these rules, the renewal of a damaged or spoiled stamp means the supply in lieu thereof of a fresh stamp or stamps of a similar kind and equal value; provided that non-judicial stamps shall not be given in exchange for damaged or spoiled Court-fee stamps.

II.—A stamp shall be deemed to be damaged or spoiled in the following cases only, namely :—

- (1). When the stamp, or the paper on which it is impressed or affixed, has been inadvertently and undesignedly spoiled, obliterated, or by any means rendered permanently unfit for use, whether the said paper be written upon or not.
- (2). When, by reason of some material error in the writing or copying of a stamped document, it shall become of no avail.
- (3). When the purpose intended to be effected by a stamped document has been effected by some other document duly stamped.

III.—Subject to the provisions of Rule IV, damaged or spoiled stamps of the following descriptions only may be renewed :—

- (1). Impressed stamps.
- (2). Adhesive stamps used in combination with impressed stamps, in accordance with any rule for the time being in force made under Section 27, clause (b) of the Court Fees Act, 1870.

IV.—If any person is possessed of a damaged or spoiled stamp of either of the descriptions mentioned in Rule III, and delivers up the same to the Collector for cancellation, and applies for its renewal within six months after the stamp has become damaged or spoiled, the Collector may, if satisfied of the sufficiency of the grounds of the application, cancel and renew such stamp.

V.—All stamps cancelled under Rule IV shall be forwarded to the Superintendent of Stamps, Punjab, for destruction.

(Notification No. 1162, dated 9th May 1885, Punjab Gazette of 14th idem, Part I, page 345).

(d).—For Rules regarding the supply and account of Court-fee stamps, see Note (1) to Act of 1870.

28. No document which ought to bear a stamp under this Act shall be of any validity, unless and until it is properly stamped.

Stamping documents inadvertently received.

But if any such document is through mistake or inadvertence received, filed, or used in any Court or office without being properly stamped, the presiding Judge or the head of the office, as the case may be, or, in the case of a High Court, any Judge of such Court, may, if he thinks fit, order that such document be stamped as he may direct; and on such document being stamped accordingly, the same and every proceeding relative thereto shall be as valid as if it had been properly stamped in the first instance.

29. Where any such document is amended in order merely to correct a mistake and to make it conform to the original intention of the parties, it shall not be necessary to impose a fresh stamp.

Amended document.

30. No document requiring a stamp under this Act shall be filed or acted upon in any proceeding in any Court or office until the stamp has been cancelled.

Cancellation of stamp.

Such officer as the Court or the head of the office may from time to time appoint, shall, on receiving any such document, forthwith effect such cancellation by punching out the figure-head so as to leave the amount designated on the stamp untouched, and the part removed by punching shall be burnt or otherwise destroyed.

NOTE.—For Rules regarding the cancellation of Court-fee stamps, see Judicial Circular No. CXXXI (h).

CHAPTER VI.

MISCELLANEOUS.

31. i. Whenever an application or petition containing a complaint or charge of an offence, other than an offence for which police officers may arrest without warrant, is presented to a criminal Court, the Court, if it convict the accused person, shall, in addition to the penalty imposed upon him, order him to repay to the complainant the fee paid on such application or petition.

Repayment of fees paid on applications to criminal Courts.

ii. In the case mentioned in section eighteen, the Court, if it convict the accused person, shall, in addition to the penalty imposed upon him, order him to repay to the complainant the fee, if any, paid by the latter for the examination.

iii. When the complainant has paid fees for serving processes in either of the cases mentioned in the first and second paragraphs of this section, the Court, if it convict the accused person, shall, in addition to the penalty imposed upon him, order him to repay such fees to the complainant.

iv. All fees ordered to be repaid under this section may be recovered as if they were fines imposed by the Court.

32. The Code of Civil Procedure, sections three hundred and eight and three hundred and nine, shall be read as if, for the words 'stamp duty,' and 'stamps,' the words and figures 'fees chargeable under the Court-Fees Act,'

Amendments of Act VIII of 1859, Sections 308, 309, 371, 373.

1870, were substituted; section three hundred and seventy-one of the same Code shall be read as if, for the words 'a stamp of the value,' the words 'the payment of the fee,' were substituted: and section three hundred and seventy-three of the same Code shall be read as if, for the words 'on a stamp paper of the value,' the words 'and shall be chargeable with the fee,' were substituted; and as if, for the words 'for the stamps,' the words 'the fees,' were substituted.

NOTE.—The second clause of this section has been repealed by Act XVI of 1870.

33. Whenever the filing or exhibition in a criminal Court of a document in respect of which the proper fee has not been paid is, in the opinion of the presiding Judge, necessary to prevent a failure of justice, nothing contained in section four or section six shall be deemed to prohibit such filing or exhibition.

Admission in criminal cases of documents for which proper fee has not been paid.

34. In the General Stamp Act, 1869, section forty-eight shall be read as if, for the words and figures 'Act No. XXVI of 1867 (to amend the law relating to Stamp Duties),' the words and figures 'The Court Fees Act, 1870,' were substituted.

Rules for sale of stamps.

35. The Governor-General of India in Council may from time to time by notification in the *Gazette of India*, reduce or remit, in the whole or in any part of British India, all or any of the fees mentioned in the first and second schedules to this Act annexed,

and may in like manner cancel or vary such order.

NOTE.—In the exercise of the power conferred by this section, the Governor-General in Council has remitted the fees chargeable under this Act in respect of the following documents:—

(a). Copy of certificates granted under Section 259 of Act VIII of 1859, by which the right, title and interest in immovable property sold in execution of a decree by a Civil Court are transferred to the purchaser.—(Notification No. 3906, dated 24th October 1873—*Punjab Gazette* of 30th idem).

(b). A. Copies of village settlement records furnished to land-holders and cultivators during the currency or at the termination of settlement operations.

B. List of fields extracted from village settlement records for the purpose of being filed with petitions of plaint in Settlement Courts.

2. —Nothing in this Notification applies to—

(a). Copies of judicial proceedings.

(b). Copies of village settlement records (other than lists of fields extracted as aforesaid) which may be filed in any Court office.

3. Notification No. 1906 of the Government of India, in the Financial Department, dated 9th August 1872, is hereby rescinded.—(Notification 4193, dated 3rd July 1874—*Gazette of India* of 4th idem, and *Punjab Gazette* of 9th idem).

(c). Applications presented to a Collector for refund of the amount paid to Government for stamped paper, which has become spoiled or unfit for use, or is no longer required for use, and on applications for renewal of stamped paper which has become spoiled or unfit for use.—(Notification No. 8616, dated 19th December 1873—*Punjab Gazette* of 25th idem).

(d). Applications in writing relating exclusively to the purchase of salt, the property of Government.—(Notification No. 1293, dated 20th February 1874—*Punjab Gazette* of 28th idem).

(e). Bonds and other instruments executed by salaried officers of Government to secure the due performance of their duties (Schedule 2, No. 6).—(Notification No. 47, dated 6th January 1871—*Gazette of India* of 7th idem, p. 4).

(f). Probate of wills or letters of administration in so far as such wills or letters of administration relate to property which a deceased person was possessed of or entitled to, not beneficially, but as a trustee for any other person or persons.

Provided that this remission shall not extend to cases in which a trustee has the power of appointing or otherwise conferring a beneficial interest in the trust property.—(Notification No. 2004, dated 14th July 1871—*Gazette of India of 15th idem*).

The provisions of the foregoing Notification were declared to have retrospective effect, from the 1st day of April 1870, the date on which the Court Fees Act came into force, by Government of India Notification No. 2185, dated 22nd March 1872—(*Punjab Gazette of 28th idem*).

(g). In exercise of the powers conferred by Section 35 of the Court Fees Act, VII of 1870, the Governor-General in Council is pleased to direct:—

* 1st. That the stamp duty on plaints in suits cognizable under Section 21 of Act XIX of 1865 in the Kohat district, shall not exceed eight annas, and

2nd. That the rate of stamp duty payable under the first schedule annexed to the said Court Fees Act on memoranda of appeal in such suits, be reduced to one-fourth of the rate mentioned in the said schedule, except where such reduced stamp duty would be less than two annas, in which case the duty payable shall be two annas.—(Notification No. 1769, dated 24th March 1876—*Gazette of India of 25th idem*, p. 160).

(h). In exercise of the powers conferred by Section 35 of the Court Fees Act, VII of 1870, the Hon'ble the President in Council is pleased to direct that in any district the land revenue of which is being resettled, the proper fee on a plaint or memorandum of appeal in a suit to alter or cancel any entry in the register of names of proprietors of revenue-paying estates, shall be reduced to eight annas, provided that the suit or appeal is instituted in the Court of a Settlement Officer invested with powers under Section 21 of Act XIX of 1865.*

This Notification extends only to the territories, for the time being, under the administration of the Lieutenant-Governor of the Punjab.—(Government of India Notification No. 2850, dated 30th November 1876).

(i). In exercise of the powers conferred by Section 35 of the Court Fees Act, VII of 1870, and in supersession of the Notification in the Financial Department, No. 4368, dated 31st October 1870, the Governor-General in Council is pleased to remit the fees chargeable under the said Act in respect of—

1st.—Copies of all documents furnished under the orders of any Court or Magistrate to any Government Advocate or Pleader or other person specially empowered in that behalf for the purpose of conducting any trial or investigation on the part of Government before any Criminal Court.

2nd.—Copies of all documents which any such Advocate, Pleader or other person is required to take in connection with any such trial or investigation for the use of any Court or Magistrate, or may consider necessary for the purpose of advising the Government in connection with any criminal proceeding.

3rd.—Copies of judgements and depositions required by officers of the Police Department for conducting appeals on behalf of Government before any Criminal Court.—(Government of India Notification No. 2041, dated 24th July 1877).

(j). In exercise of the powers conferred by Section 35 of the Court Fees Act, 1870, the Governor-General in Council is pleased to declare that the fee chargeable under the said Act on plaints filed in suits for possession of immoveable property under Section 9 of the Specific Relief Act, No. I of 1877, shall be one-half of the amount prescribed in the scale of fees for plaints mentioned in Schedule I, Article 1 of the Court Fees Act.—(Government of India Notification No. 2127, dated 27th July 1877).

(k). In exercise of the powers conferred by Section 35 of the Court Fees Act, 1870, the Governor-General in Council is pleased to fix at the following amounts the Court fee payable under Schedule II, number I (b) of the said Act, for a petition of objection under the Northern India License Act, 1878 †:—

	Court fee.
When the petitioner has been charged under the second class ...	... 4 annas
When the petitioner has been charged under the third class ...	... 1 annas.

(Government of India Notification No. 1465, dated 5th July 1878).

* Act XIX of 1865 was repealed by Act XVII of 1877.

† Act II of 1878 has been repealed by Act II of 1899.

(l). Whereas certain orders issued by the Civil Courts under Section 244 of the Code of Code Procedure, 1877, have been declared to be "decrees" by Section 2 Act of XII of 1879.

In exercise of the powers conferred by Section 35 of the Court Fees Act, 1870, the Governor-General in Council is pleased to direct that the Court Fee payable on appeals from such orders issued under Section 244 of the Code of Civil Procedure shall be limited to the amounts chargeable under Article 11, Schedule II of the Court Fees Act.

(Government of India Notification No. 3967, dated 22nd November 1879).

(m). In exercise of the powers conferred by Section 35 of the Court Fees Act, VII of 1870, the Governor-General in Council is pleased to remit, in the whole of British India, the fees chargeable under the said Act on security bonds for keeping of the peace by, or good behaviour of persons other than the executors.

(Government of India Notification No. 1431, dated 27th March 1880).

(n). In exercise of the powers conferred by Section 35 of the Court Fees Act, VII of 1870, the Governor-General in Council directs that the fee on a plaint or memorandum of appeal in a suit for a declaration of title instituted in the Court of a Settlement officer invested with powers under S. 49 of the Punjab Courts Act, 1877, shall be reduced to one rupee.

(Government of India Notification No. 2338, dated 14th August 1880).

(o). In exercise of the powers conferred by Section 35 of the Court Fees Act, 1870, the Governor-General in Council is pleased to remit the Court Fees payable under Clauses 6, 7 and 9 of Schedule I of the Act on copies furnished by the Civil and Criminal Courts for the private use of persons applying for them.

This notification shall not be deemed to exempt copies furnished thereunder from the payment of the fees chargeable on such copies when filed, exhibited or recorded in any Court of Justice, or received by any public officer.

(Government of India Notification No. 1361, dated 25th June 1881).

(p). Copies of orders and sentences in custom cases should be supplied to custom officers free of stamp. (Government of India No. 353, dated 28th October 1875, to Chief Commissioner (Central Provinces)).

(q). A petition to a Chief Commissioner when it is accompanied by a petition to the Government of India and contains merely a request that such petition may be forwarded to the Government of India, is exempt. (Government of India Notification No. 669, dated 21st May 1881).

(r). In exercise of the powers conferred by Section 35 of the Court Fees Act, VII of 1870, and in supersession of Notification in this Department, No. 3681, dated 20th October 1881, the Governor-General in Council remits in the whole of British India the fees payable under clause (a), paragraph 4, and clause (b), paragraph 2 of Article 1, Schedule II, annexed to the said Act, on applications for orders for the payment of deposits in cases in which the deposit does not exceed Rs. 25 in amount: provided that the application is made within three months of the date on which the deposit first become payable to the party making the application.

(Government of India Notification No. 849, dated 16th February 1883).

(s). In exercise of the powers conferred by Section 35 of the Court Fees Act, 1870, the Hon'ble the President in Council is pleased to direct that, when a part of an estate paying annual revenue to Government under a settlement which is not permanent, is recorded in the Collector's register as separately assessed with such revenue, the court fee payable on the institution of a suit for the possession of a fractional share of that part shall not exceed five times such portion of the revenue separately assessed on that part as may be rateably payable in respect of the share.

(Government of India Notification No. 690) dated 1st February 1884, Gazette of India of 2nd idem).

(t). In exercise of the powers conferred by Section 35 of the Court Fees Act, 1870, the Governor-General in Council is pleased to remit the court-fees payable under clauses 6, 7 and 9 of Schedule I of the Act, on copies furnished by the Revenue Courts and Offices for the private use of persons applying for them.

This notification shall not be deemed to exempt copies furnished thereunder from the payment of the fees chargeable on such copies when filed, exhibited or recorded in any Court of justice or received by any public officer. (Government of India Notification No. 3319 dated 9th September 1884, Gazette of India of 13th idem).

(u). In exercise of the powers conferred by Section 19 of the Court Fees Act, 1870, and with reference to Clause XI of Section 19 of the Court Fees Act, 1870, the Governor-General in Council is pleased to remit the fees chargeable on applications for leave to occupy under direct engagement with Government land of which the revenue is settled, but

not permanently, when made by persons who do not at the time of application hold such land. (*Government of India Notification No. 3626, dated 23rd September 1884, Gazette of India of 27th idem*).

(v). In exercise of the powers conferred by Section 35 of the Court Fees Act, 1870, the Governor-General in Council is pleased to remit the Court Fees payable under that Act on copies of orders or proceedings of Settlement Officers, under Section 19 of the Punjab Land Revenue Act, 1871, when such copies are furnished for the purpose of being filed with applications or petitions of the nature referred to in Clause IX of Section 19 of the Court Fees Act, 1870.

This Notification shall not be deemed to exempt copies furnished thereunder from the payment of the fees chargeable on such copies when filed, exhibited or recorded otherwise than with the applications above referred to. (*Government of India Notification No. 2353, dated 24th December 1884, Gazette of India of 27th idem*).

(w). In exercise of the powers conferred by Section 35 of the Court Fees Act, 1870, the Governor-General in Council is pleased to remit the fees payable on applications for loans under the Agriculturists' Loans Act, XII of 1884. (*Government of India Notification No. 241, dated 15th January 1885, Gazette of India of 17th idem*).

(x). In exercise of the powers conferred by Section 35 of the Court Fees Act, 1870, the Governor-General in Council has remitted the whole of the fees payable on an application made by a person to the Collector under the 2nd paragraph of Section 39 of the Indian Stamp Act, 1879, for the return to the person, or to the registration officer who impounded it, of a document impounded and sent to the Collector by a registration officer. (*Government of India Notification No. 1196, dated 6th March 1885, Gazette of India of 7th idem*).

(y). In exercise of the powers conferred by Section 35 of the Court Fees Act, 1870, the Governor-General in Council is pleased to remit the fees payable on applications for loans under the Land Improvement Loans Act, 1883. (*Government of India, Notification No. 1138, dated 29th May 1885, Gazette of India of 30th idem*).

(z). In exercise of the powers conferred on him by Section 35 of the Court Fees Act, 1870, the Governor-General in Council has remitted the Court-fee payable on an application for transfer of a Stock Note from one circle to another made under paragraph 6 of Resolution No. 2566 of 20th August 1885. (*Government of India Notification No. 2632, dated 21st August 1885, Gazette of India of 22nd idem*).

(aa). In exercise of the powers conferred by Section 35 of the Court-fees Act, VII. of 1870, and in super-session of the notifications noted on the margin, the Governor-General in Council is pleased to remit the fees payable under the said Act on the following documents, namely:—

Home Department Notification, No. 1683, dated 19th September 1870.	1870, and in super-session of the notifications noted on the margin, the Governor-General
Finl. " " " 2520, " 5th April 1872.	
Finl. " " " 7317, " 18th December 1874.	
Home " " " 1443, " 2nd November 1883.	

- (1) Copy of a charge framed under Section 210 of the Code of Criminal Procedure, 1882, or of a translation thereof, when the copy is given to an accused person.
- (2) Copy of the evidence of supplementary witnesses after commitment, when the copy is given under Section 219 of the said Code to an accused person.
- (3) Copy or translation of a judgment in a case other than a summons-case, and copy of the heads of the Judge's charge to the jury, when the copy or translation is given under Section 371 of the said Code to an accused person.
- (4) Copy or translation of a judgment in a summons-case, when the accused person to whom the copy or translation is given under Section 371 of the said Code is in jail.
- (5) Copy of an order of maintenance, when the copy is given under Section 490 of the said Code to the person in whose favour the order is made, or to his guardian, if any, or to the person to whom the allowance is to be paid.
- (6) Copy furnished to any person affected by a judgment or order passed by a Criminal Court of the Judge's charge to the jury, or of any order, deposition or other part of the record, when the copy is not a copy which may be granted under any preceding clause of this notification without the payment of a Court-fee, but is a copy which, on its being applied for under Section 548 of the said Code, the Judge or Magistrate, for some special reason to be recorded by him on the copy, thinks fit to furnish without such payment.

- (7) Copy of all documents furnished under the orders of any Court or Magistrate to any Government Advocate or Pleader or other person specially empowered in that behalf for the purpose of conducting any trial or investigation, of the part of the Government before any Criminal Court.
- (8) Copies of all documents which any such Advocate, Pleader or other person is required to take, in connection with any such trial or investigation, for the use of any Court or Magistrate, or may consider necessary for the purpose of advising the Government in connection with any criminal proceedings.
- (9) Copies of judgments or depositions required by officers of the Police Department in the course of their duties. (*Government of India Notification No. 310 dated 21st January 1886, Gazette of India of 23rd idem*).

(bb). Under Section 35 of the Court Fees Act, VII of 1870, the Hon'ble the President in Council is pleased to direct that the fee payable under this said Act on a petition to the Collector under Section 25, Act II of 1886, to have an assessment reduced or cancelled, shall whatever may be the amount of the assessment to which the petition relates, be limited to one anna. (*Government of India Notification No. 594, dated 5th February 1886, Gazette of India of 6th idem*).

(cc). A similar exemption has been notified with regard to an application under Act II of 1886 to a Collector, or to any officer or person exercising all or any of the functions of a Collector, with respect either to liability to assessment, or to the amount of an assessment. (*Government of India Notification No. 1983, dated 16th July 1886, Gazette of India of 17th idem*).

(dd). The fee payable on a copy of an order passed under Section 26 of Act II of 1886, has been limited to one anna. (*Government of India Notification No. 4088, dated 5th November 1886, Gazette of India of 6th idem*).

(ee). In supersession of Notification No. 4347, dated the 26th November 1886, and in exercise of the powers conferred by Section 35 of the Court Fees Act, 1870, the Governor-General in Council is pleased to remit the fee payable under the said Act on an application presented by any person for the return of a document filed by him in any Court or public office. (*Government of India Notification No. 2111, dated 22nd April 1887, Gazette of India of 23rd idem*).

36. Nothing in chapters II and V of this Act applies to the commission payable to the Accountant General of the High Court at Fort William, or to the fees which any officer of a High Court is allowed to receive in addition to a fixed salary.

Saving of fees to certain officers of High Court.

NOTE.—See Judicial Circular No. CXXXI, and Stamp Circular No. 21 of 1885.

SCHEDULE I.

Ad valorem fees.

NUMBER.		PROPER FEE.
1. Plaintiff's memorandum of appeal (not otherwise provided for in this Act), presented to any Civil or Revenue Court, except those mentioned in Section 3*.	When the amount or value of the subject-matter in dispute does not exceed five rupees	Six annas.
	When such amount or value exceeds five rupees, For every five rupees, or part thereof, in excess of five rupees, up to one hundred rupees	Six annas.
	When such amount or value exceeds one hundred rupees, For every ten rupees, or part thereof, in excess of one hundred rupees, up to one thousand rupees	Twelve annas.
	When such amount or value exceeds one thousand rupees, For every one hundred rupees, or part thereof, in excess of one thousand rupees, up to five thousand rupees	Five rupees.

* To ascertain the proper fee leviable on the institution of a suit see the Table annexed to this schedule.

SCHEDULE I.—Continued.

Ad valorem fees.

NUMBER.		PROPER FEE.
1. <i>Plaint, &c.— (continued).</i>	When such amount or value exceeds five thousand rupees, For every two hundred and fifty rupees, or part thereof, in excess of five thousand rupees, up to ten thousand rupees	Ten rupees.
	When such amount or value exceeds ten thousand rupees, For every five hundred rupees, or part thereof, in excess of ten thousand rupees, up to twenty thousand rupees	Fifteen rupees.
	When such amount or value exceeds twenty thousand rupees, For every one thousand rupees, or part thereof, in excess of twenty thousand rupees, up to thirty thousand rupees	Twenty rupees.
	When such amount or value exceeds thirty thousand rupees, For every two thousand rupees or part thereof, in excess of thirty thousand rupees, up to fifty thousand rupees	Twenty rupees.
	When such amount or value exceeds fifty thousand rupees, For every five thousand rupees, or part thereof, in excess of fifty thousand rupees	Twenty-five rupees.
	Provided that the maximum fee leviable on a plaint or memorandum of appeal shall be three thousand rupees.	
2. <i>Plaint in a suit for possession under Act No. XIV of 1859 (to provide for the limitation of suits), section fifteen.</i>	...	A fee of one-half the amount prescribed in the foregoing scale.
<i>Note.—As amended by Act XX of 1870.</i>	...	
3. <i>Repealed by Act VIII of 1871.</i>	...	
4. <i>Application for review of judgment, if presented on or after the ninetieth day from the date of the decree.</i>	...	The fee leviable on the plaint or memorandum of appeal.
5. <i>Application for review of judgment if presented before the ninetieth day from the date of the decree.</i>	...	One-half of the fee leviable on the plaint or memorandum of appeal.
* <i>Copy or translation of a judgment or order not being, or having the force of, a decree.</i>	When such judgment or order is passed by any Civil Court other than a High Court, or by the presiding officer of any Revenue Court or Office, or by any other Judicial or Executive Authority—	
	(a).—If the amount or value of the subject-matter is fifty or less than fifty rupees,	Four annas.
	(b).—If such amount or value exceeds fifty rupees	Eight annas.
	When such judgment or order is passed by a High Court	One rupee.

SCHEDULE I.—Continued.

Ad valorem fees.

NUMBER.		PROPER FEE.
* 7. Copy of a decree or order having the force of a decree.	<p>When such decree or order is made by any Civil Court other than a High Court, or by any Revenue Court—</p> <p>(a).—If the amount or value of the subject-matter of the suit wherein such decree or order is made is fifty or less than fifty rupees</p> <p>(b).—If such amount or value exceeds fifty rupees</p> <p>When such decree or order is made by a High Court</p>	<p>Eight annas.</p> <p>One rupee.</p> <p>Four rupees.</p>
8. Copy of any document liable to stamp duty under the General Stamp Act, 1869, when left by any party to a suit or proceeding in place of the original withdrawn	<p>(a).—When the stamp-duty chargeable on the original does not exceed eight annas</p> <p>(b).—In any other case</p>	<p>The amount of the duty chargeable on the original.</p> <p>Eight annas.</p>
* 9. Copy of any revenue or judicial proceeding or order not otherwise provided for by this Act, or copy of any account, statement, report or the like, taken out of any Civil or Criminal or Revenue Court or office, or from the office of any chief officer charged with the executive administration of a Division.	<p>For every three hundred and sixty words or fraction of three hundred and sixty words</p>	<p>Eight annas.</p>
10. Certificate of administration granted under Act No. XL. of 1858 (for making better provision for the care of the persons and property of minors in the Presidency of Fort William in Bengal), or under Act No. XX of 1864 (for making better provision for the care of the persons and property of minors in the Presidency of Bombay):	<p>If the amount or value of the property in respect to which such certificate is granted does not exceed five hundred rupees</p> <p>If such amount or value exceeds five hundred rupees but not one thousand rupees</p> <p>And for every one thousand rupees, or part thereof, in excess of one thousand rupees</p> <p>Note.—Under Section 35 the Governor-General in Council has made the following regulations:—</p>	<p>Five rupees.</p> <p>Ten rupees.</p> <p>Five rupees.</p>

* See Section 35, Notes (c) and (d).

SCHEDULE I.—Continued.

Ad valorem fees.

NUMBER.		PROPER FEE.
	<p>Whenever upon payment of the full fee chargeable under the said Act, a certificate of administration has been granted under Act XL. of 1845, or Act XX of 1864, and a fresh certificate is for any reason subsequently granted in respect of the same estate, no fees shall be chargeable upon the fresh certificate so granted.—(Notification No. 855, dated 5th February 1875—<i>Gazette of India</i> of 6th idem). See also Act XIII of 1875.</p>	
<p>* 11. Probate of a will or letters of administration with or without will annexed.</p>	<p>If the amount or value of the property in respect of which the probate or letters or certificate shall be granted exceeds one thousand rupees</p>	<p>Two per centum on such amount or value.</p>
<p>12. Certificate granted under Act No. XXV III of 1860 (for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons), or under Bombay Regulation VIII of 1827 (to provide for the formal recognition of Heirs, Executors and Administrators and for the appointment of Administrators and Managers of property by the Courts).</p>	<p>NOTE.—When the amount or value of the property in respect of which the probate or letters or certificate shall be granted does not exceed Rs. 1,000, (the document is not chargeable with any fee (S. 19, Clause viii).</p> <p>NOTE.—The person to whom any such certificate is granted, or his representative, shall, after the expiration of twelve months from the date of such certificate and thereafter whenever the Court granting such certificate requires him so to do, file a statement on oath of all monies recovered or realized by him under such certificate.</p> <p>If the monies so recovered or realized exceed the amount of debts or other property as sworn to by the person to whom the certificate is granted, the Court may cancel the same and order such person to take out a fresh certificate and pay the fee prescribed by this schedule for such excess.</p> <p>In default of filing such statement within the time allowed, the Court may cancel the certificate.</p>	<p>Provided that, when after a certificate has been granted as aforesaid in respect of any estate, probate or letters of administration is or are granted in respect of the same estate, the fee payable in respect of such latter grant shall be reduced by the amount of the fee paid in respect of the former grant.</p> <p>NOTE.—The above proviso is added by Act V of 1881, Section 153.</p>
<p>13. Application to the Chief Court or the Court of the Financial Commissioner of the Punjab for the exercise of its revisional jurisdiction under Section 622 of the Code of Civil Procedure.</p>	<p>When the amount or value of the subject-matter in dispute does not exceed twenty-five rupees.</p> <p>When such amount or value exceeds twenty-five rupees.</p> <p>NOTE.—Added by Act XVIII of 1884, Section 71.</p>	<p>Two rupees.</p> <p>The fee leviable on a memorandum of appeal.</p>

Table of rates of ad valorem fees, leviable on the institution of suits.

When the amount or value of the subject-matter exceeds	But does not exceed	Proper Fee.	When the amount or value of the subject-matter exceeds	But does not exceed	Proper Fee.
Rs.	Rs.	Rs. A. P.	Rs.	Rs.	Rs. A. P.
0	5	0 6 0	470	480	36 0 0
5	10	0 12 0	480	490	36 12 0
10	15	1 2 0	490	500	37 8 0
15	20	1 8 0	500	510	38 4 0
20	25	1 14 0	510	520	39 0 0
25	30	2 4 0	520	530	39 12 0
30	35	2 10 0	530	540	40 8 0
35	40	3 0 0	540	550	41 4 0
40	45	3 6 0	550	560	42 0 0
45	50	3 12 0	560	570	42 12 0
50	55	4 2 0	570	580	43 8 0
55	60	4 8 0	580	590	44 4 0
60	65	4 14 0	590	600	45 0 0
65	70	5 4 0	600	610	45 12 0
70	75	5 10 0	610	620	46 8 0
75	80	6 0 0	620	630	47 4 0
80	85	6 6 0	630	640	48 0 0
85	90	6 12 0	640	650	48 12 0
90	95	7 2 0	650	660	49 8 0
95	100	7 8 0	660	670	50 4 0
100	110	8 4 0	670	680	51 0 0
110	120	9 0 0	680	690	51 12 0
120	130	9 12 0	690	700	52 8 0
130	140	10 8 0	700	710	53 4 0
140	150	11 4 0	710	720	54 0 0
150	160	12 0 0	720	730	54 12 0
160	170	12 12 0	730	740	55 8 0
170	180	13 8 0	740	750	56 4 0
180	190	14 4 0	750	760	57 0 0
190	200	15 0 0	760	770	57 12 0
200	210	15 12 0	770	780	58 8 0
210	220	16 8 0	780	790	59 4 0
220	230	17 4 0	790	800	60 0 0
230	240	18 0 0	800	810	60 12 0
240	250	18 12 0	810	820	61 8 0
250	260	19 8 0	820	830	62 4 0
260	270	20 4 0	830	840	63 0 0
270	280	21 0 0	840	850	63 12 0
280	290	21 12 0	850	860	64 8 0
290	300	22 8 0	860	870	65 4 0
300	310	23 4 0	870	880	66 0 0
310	320	24 0 0	880	890	66 12 0
320	330	24 12 0	890	900	67 8 0
330	340	25 8 0	900	910	68 4 0
340	350	26 4 0	910	920	69 0 0
350	360	27 0 0	920	930	69 12 0
360	370	27 12 0	930	940	70 8 0
370	380	28 8 0	940	950	71 4 0
380	390	29 4 0	950	960	72 0 0
390	400	30 0 0	960	970	72 12 0
400	410	30 12 0	970	980	73 8 0
410	420	31 8 0	980	990	74 4 0
420	430	32 4 0	990	1,000	75 0 0
430	440	33 0 0	1,000	1,100	80 0 0
440	450	33 12 0	1,100	1,200	85 0 0
450	460	34 8 0	1,200	1,300	90 0 0
460	470	35 4 0	1,300	1,400	95 0 0

Table of rates of ad valorem fees, &c.—continued.

When the amount or value of the subject-matter exceeds	But does not exceed	Proper Fee.	When the amount or value of the subject-matter exceeds	But does not exceed	Proper Fee.
Rs.	Rs.	Rs. A. P.	Rs.	Rs.	Rs. A. P.
1,400	1,500	100 0 0	11,000	11,500	520 0 0
1,500	1,600	105 0 0	11,500	12,000	535 0 0
1,600	1,700	110 0 0	12,000	12,500	550 0 0
1,700	1,800	115 0 0	12,500	13,000	565 0 0
1,800	1,900	120 0 0	13,000	13,500	580 0 0
1,900	2,000	125 0 0	13,500	14,000	595 0 0
2,000	2,100	130 0 0	14,000	14,500	610 0 0
2,100	2,200	135 0 0	14,500	15,000	625 0 0
2,200	2,300	140 0 0	15,000	15,500	640 0 0
2,300	2,400	145 0 0	15,500	16,000	655 0 0
2,400	2,500	150 0 0	16,000	16,500	670 0 0
2,500	2,600	155 0 0	16,500	17,000	685 0 0
2,600	2,700	160 0 0	17,000	17,500	700 0 0
2,700	2,800	165 0 0	17,500	18,000	715 0 0
2,800	2,900	170 0 0	18,000	18,500	730 0 0
2,900	3,000	175 0 0	18,500	19,000	745 0 0
3,000	3,100	180 0 0	19,000	19,500	760 0 0
3,100	3,200	185 0 0	19,500	20,000	775 0 0
3,200	3,300	190 0 0	20,000	21,000	790 0 0
3,300	3,400	195 0 0	21,000	22,000	815 0 0
3,400	3,500	200 0 0	22,000	23,000	835 0 0
3,500	3,600	205 0 0	23,000	24,000	855 0 0
3,600	3,700	210 0 0	24,000	25,000	875 0 0
3,700	3,800	215 0 0	25,000	26,000	895 0 0
3,800	3,900	220 0 0	26,000	27,000	915 0 0
3,900	4,000	225 0 0	27,000	28,000	935 0 0
4,000	4,100	230 0 0	28,000	29,000	955 0 0
4,100	4,200	235 0 0	29,000	30,000	975 0 0
4,200	4,300	240 0 0	30,000	32,000	995 0 0
4,300	4,400	245 0 0	32,000	34,000	1,015 0 0
4,400	4,500	250 0 0	34,000	36,000	1,035 0 0
4,500	4,600	255 0 0	36,000	38,000	1,055 0 0
4,600	4,700	260 0 0	38,000	40,000	1,075 0 0
4,700	4,800	265 0 0	40,000	42,000	1,095 0 0
4,800	4,900	270 0 0	42,000	44,000	1,115 0 0
4,900	5,000	275 0 0	44,000	46,000	1,135 0 0
5,000	5,250	285 0 0	46,000	48,000	1,155 0 0
5,250	5,500	295 0 0	48,000	50,000	1,175 0 0
5,500	5,750	305 0 0	50,000	55,000	1,200 0 0
5,750	6,000	315 0 0	55,000	60,000	1,225 0 0
6,000	6,250	325 0 0	60,000	65,000	1,250 0 0
6,250	6,500	335 0 0	65,000	70,000	1,275 0 0
6,500	6,750	345 0 0	70,000	75,000	1,300 0 0
6,750	7,000	355 0 0	75,000	80,000	1,325 0 0
7,000	7,250	365 0 0	80,000	85,000	1,350 0 0
7,250	7,500	375 0 0	85,000	90,000	1,375 0 0
7,500	7,750	385 0 0	90,000	95,000	1,400 0 0
7,750	8,000	395 0 0	95,000	1,00,000	1,425 0 0
8,000	8,250	405 0 0	1,00,000	1,05,000	1,450 0 0
8,250	8,500	415 0 0	1,05,000	1,10,000	1,475 0 0
8,500	8,750	425 0 0	1,10,000	1,15,000	1,500 0 0
8,750	9,000	435 0 0	1,15,000	1,20,000	1,525 0 0
9,000	9,250	445 0 0	1,20,000	1,25,000	1,550 0 0
9,250	9,500	455 0 0	1,25,000	1,30,000	1,575 0 0
9,500	9,750	465 0 0	1,30,000	1,35,000	1,600 0 0
9,750	10,000	475 0 0	1,35,000	1,40,000	1,625 0 0
10,000	10,500	485 0 0	1,40,000	1,45,000	1,650 0 0
10,500	11,000	495 0 0	1,45,000	1,50,000	1,675 0 0

Table of rates of ad valorem fees, &c.—continued.

When the amount or value of the subject-matter exceeds	But does not exceed	Proper Fee.	When the amount or value of the subject-matter exceeds	But does not exceed	Proper Fee.
Rs.	Rs.	Rs. A. P.	Rs.	Rs.	Rs. A. P.
1,50,000	1,55,000	1,700 0 0	2,85,000	2,90,000	2,975 0 0
1,55,000	1,60,000	1,725 0 0	2,90,000	2,95,000	2,400 0 0
1,60,000	1,65,000	1,750 0 0	2,95,000	3,00,000	2,425 0 0
1,65,000	1,70,000	1,775 0 0	3,00,000	3,05,000	2,450 0 0
1,70,000	1,75,000	1,800 0 0	3,05,000	3,10,000	2,475 0 0
1,75,000	1,80,000	1,825 0 0	3,10,000	3,15,000	2,500 0 0
1,80,000	1,85,000	1,850 0 0	3,15,000	3,20,000	2,525 0 0
1,85,000	1,90,000	1,875 0 0	3,20,000	3,25,000	2,550 0 0
1,90,000	1,95,000	1,900 0 0	3,25,000	3,30,000	2,575 0 0
1,95,000	2,00,000	1,925 0 0	3,30,000	3,35,000	2,600 0 0
2,00,000	2,05,000	1,950 0 0	3,35,000	3,40,000	2,625 0 0
2,05,000	2,10,000	1,975 0 0	3,40,000	3,45,000	2,650 0 0
2,10,000	2,15,000	2,000 0 0	3,45,000	3,50,000	2,675 0 0
2,15,000	2,20,000	2,025 0 0	3,50,000	3,55,000	2,700 0 0
2,20,000	2,25,000	2,050 0 0	3,55,000	3,60,000	2,725 0 0
2,25,000	2,30,000	2,075 0 0	3,60,000	3,65,000	2,750 0 0
2,30,000	2,35,000	2,100 0 0	3,65,000	3,70,000	2,775 0 0
2,35,000	2,40,000	2,125 0 0	3,70,000	3,75,000	2,800 0 0
2,40,000	2,45,000	2,150 0 0	3,75,000	3,80,000	2,825 0 0
2,45,000	2,50,000	2,175 0 0	3,80,000	3,85,000	2,850 0 0
2,50,000	2,55,000	2,200 0 0	3,85,000	3,90,000	2,875 0 0
2,55,000	2,60,000	2,225 0 0	3,90,000	3,95,000	2,900 0 0
2,60,000	2,65,000	2,250 0 0	3,95,000	4,00,000	2,925 0 0
2,65,000	2,70,000	2,275 0 0	4,00,000	4,05,000	2,950 0 0
2,70,000	2,75,000	2,300 0 0	4,05,000	4,10,000	2,975 0 0
2,75,000	2,80,000	2,325 0 0	4,10,000	...	3,000 0 0
2,80,000	2,85,000	2,350 0 0			

SCHEDULE II.

Fixed Fees.

NUMBER.		PROPER FEE.
1. Application or petition	<p>(a).—When presented to any officer of the Customs or Excise Department or to any Magistrate by any person having dealings with the Government, and when the subject-matter of such application relates exclusively to those dealings ;</p> <p>or when presented to any officer of Land Revenue by any person holding temporarily-settled land under direct engagement with Government, and when the subject-matter of the application or petition relates exclusively to such engagement ;</p> <p>or when presented to any Municipal Commissioner under any Act, for the time being in force for the conservancy or improvement of any place, if the application or petition relates solely to such conservancy or improvement ;</p> <p>* or when presented to any Civil Court other than a principal Civil Court of original jurisdiction, or to any Cantonment Magistrate sitting as a Court of Civil Judicature under Act No. III of 1859, or to any Court of Small Causes constituted under Act No. XI of 1865, or under Act No. XVI of 1868, section twenty, or to a Collector or other officer of revenue in relation to any suit or case in which the amount or value of the subject-matter is less than fifty rupees ;</p> <p>† or when presented to any Civil, Criminal or Revenue Court, or to any Board or executive officer for the purpose of obtaining a copy or translation of any judgment, decree or order passed by such Court, Board or officer, or of any other document on record in such Court or office.</p> <p>(b).—When containing a complaint or charge of any offence other than an offence for which Police officers may, under the Criminal Procedure Code, arrest without warrant, and presented to any Criminal Court ;</p>	<p>One anna.</p> <p>Eight annas.</p>

* See Section 35, Note (r).

† See Section 35, Note (ee).

SCHEDULE II.—Continued.

Fixed Fees.

NUMBER.	PROPER FEE.
1. Application or petition—(continued).	<p>† or when presented to a Civil, Criminal or Revenue Court, or to a Collector, or any Revenue officer having jurisdiction equal or subordinate to a Collector, or to any Magistrate in his executive capacity, and not otherwise provided for by this Act ;</p> <p>or to deposit in Court revenue or rent ;</p> <p>or for determination by a Court of the amount of compensation to be paid by a landlord to his tenant.</p>
2. Application for leave to sue as a pauper	<p>(c).—When presented to a Chief Commissioner or other chief controlling Revenue or executive authority, or to a Commissioner of Revenue or Circuit, or to any chief officer charged with the executive administration of a Division and not otherwise provided for by this Act One rupee.</p> <p>(d).—When presented to a High Court, Two rupees.</p>
3. Application for leave to appeal as a pauper	<p>... .. Eight annas.</p> <p>(a).—When presented to a District Court One rupee.</p> <p>(b).—When presented to a Commissioner or a High Court Two rupees</p>
4. Plaint or memorandum of appeal in a suit to obtain possession under Act No. XVI of 1838, or Bombay Act No. V of 1864 (to give Mamlatdars' Courts jurisdiction in certain cases to maintain existing possession, or to restore possession to any party dispossessed otherwise than by course of law).	<p>... .. Eight annas.</p>
5. Plaint or memorandum of appeal in a suit to establish or disprove a right of occupancy.	

† See Section 35, Note (r).

SCHEDULE II.—Continued.

Fixed Fees.

NUMBER.		PROPOSED FEE.
* 6. Bail-bond or other instrument of obligation not otherwise provided for by this Act, when given by the direction of any Court or executive authority.		
7. Undertaking under section forty-nine of the Indian Divorce Act.	... ..	Eight annas.
† 8. Petition of objection to assessment under the Indian Income Tax Act.		
9. Petition of appeal under the Indian Income Tax Act ... ..	... ..	One rupee.
Note.—As amended by Act XVI of 1870.		
10. Mukhtarname or Wakalatname.	When presented for the conduct of any one case—	
	(a).—to any Civil or Criminal Court other than a High Court, or to any Revenue Court, or to any Collector or Magistrate, or other executive officer, except such as are mentioned in clauses (b) and (c) of this number.	Eight annas.
	(b).—to a Commissioner of Revenue, Circuit or Customs, or to any officer charged with the executive administration of a Division, not being the chief revenue or executive authority	One rupee.
	(c).—to a High Court, Chief Commissioner, Board of Revenue, or other chief controlling revenue or executive authority	Two rupees.
11. Memorandum of appeal when the appeal is not from an order rejecting a plaint or from a decree or an order having the force of a decree, and is presented—	(a).—to any Civil Court other than a High Court, or to any Revenue Court or executive officer other than the High Court or chief controlling Revenue or executive authority	Eight annas.
	(b).—to a High Court or Chief Commissioner, or other chief controlling executive or Revenue authority	Two rupees.

* See Section 35, Note (e).

† See Section 35, Notes (bb), (cc).

SCHEDULE II.—Continued.

Fixed Fees.

NUMBER.		PROPER FEE.
12. Caveat.		
13. Application under Act No. X of 1859, section twenty-six, or Bengal Act No. VI of 1862, section nine, or Bengal Act No. VIII of 1869, section thirty-seven. (See Notification No. 2, dated 26th April 1870, Gazette of India of 30th idem, p. 280).		Five rupees.
14. Petition in a suit under the Native Converts' Marriage Dissolution Act, 1866.		
15. *Plaint or memorandum of appeal in a suit to obtain possession of a wife.		
16. Administration-bond ...		Eight rupees.
17. *Plaint or memorandum of appeal in each of the following suits:—		
i. to alter or set aside a summary decision or order of any of the Civil Courts not established by Letters Patent or of any Revenue Court:		
ii. to alter or cancel any entry in a register of the names of proprietors of revenue-paying estates		
iii. to obtain a declaratory decree where no consequential relief is prayed:		
iv. to set aside an award:		
v. to set aside an adoption:		Ten rupees.
vi. every other suit where it is not possible to estimate at a money-value the subject-matter in dispute, and which is not otherwise provided for by this Act.		
18. Application under section three hundred and twenty-six of the Code of Civil Procedure.		
19. Agreement under section three hundred and twenty-eight of the same Code.		
20. Every petition under the Indian Divorce Act except petitions under section forty-four of the same Act, and every memorandum of appeal under section fifty-five of the same Act		Twenty rupees.
21. Plaint or memorandum of appeal under the Parsi Marriage and Divorce Act		

ACT No. VIII of 1870.

(Passed on the 18th March 1870).

An Act for the prevention of the murder of Female Infants.

Whereas the murder of female infants is believed to be commonly committed in certain parts of British India; and whereas it is necessary to make better provision for the prevention of the said offence; It is hereby enacted as follows:—

1. If it shall appear to the Local Government that the said offence is commonly committed in any district, or by any class, or family, or persons residing therein, the Local Government may, with the previous sanction of the Governor-General of India in Council declare, by notification published in the official Gazette, and in such other manner as the Local Government shall direct, that measures for the prevention of such offence shall be taken under this Act, in such district, or in respect of such class, or family, or persons.

The notification shall define the limits of such district, or shall specify the class, or family, or persons to whom such notification is to be deemed to apply.

NOTE.—With the previous sanction of the Governor-General in Council the Hon'ble the Lieutenant-Governor is, under the provisions of Section I of Act VIII of 1870 (an Act for the prevention of the murder of female infants), pleased to declare that measures for the prevention of the murder of female infants shall be taken under the said Act in respect of all Jats resident in the following villages of the Jullundur District:—

Police Station.	Village.
Jullundur	Jamsher.
Nurmahal	Jandiala.
Do.	Samra.
Do.	Bilga.
Phillour	Rurka.
Nurmahal	Bundala.
Phillour	Kolaita.
Do.	Dosauj Kalán.
Banga	Pharala.

(Notification No. 3151, dated 8th December 1884, Punjab Gazette of 11th idem, Part I, p. 1215).

2. Where such notification shall have been published as aforesaid, it shall be lawful for the Local Government, subject to the provisions of section three, from time to time to make rules consistent with this Act, for all or any of the following purposes:—

- (1).—For making and maintaining registers of births, marriages and deaths occurring in such district, or in or among the class, family, or persons to whom such notification has been made applicable; and for making, from time to time, a census of such persons, or of any other persons residing within such district:
- (2).—For entertainment of any police force in excess of the ordinary fixed establishment of police, or for the entertainment of any officers or servants, for the purpose of preventing or detecting the

murder of female infants in such district, or in or among such class, family, or persons, or for carrying out any of the provisions of this Act :

- (3).—For prescribing how and by whom information shall be given to the proper officers of all births, marriages and deaths occurring or about to occur in such district, or in or among such class, family or persons :
- (4).—For the regulation and limitation of expenses incurred by any person to whom such notification applies, on account of the celebration of marriage or of any ceremony or custom connected therewith :
- (5).—For regulating the manner in which all or any of the expenses incurred in carrying into effect rules made under this section shall be recovered from all or any of the inhabitants of such district, or from the persons to whom such notification is applicable :
- (6).—For defining the duties of any officer or servant appointed to carry out any rule made under this section.

3. No rule or alteration made under section two shall take effect, until it shall have been confirmed by the Governor-General of India in Council and published in the *Gazette of India* and also in the *Local Gazette*.

Copies of every such rule shall be affixed in such places, and shall be distributed in such manner, as the Local Government may direct.

4. Whoever disobeys any such rule shall, on conviction before any officer exercising the powers of a Magistrate, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

5. Nothing in this Act, or in any rule made and published as aforesaid, shall prevent any person from being prosecuted and punished under any other law for any offence punishable under this Act ; Provided that no person shall be punished twice for the same offence.

6. If it appears to the Magistrate of the District that any person to whom the notification mentioned in section one applies, neglects to make proper provision for the maintenance of any female child for whose maintenance he is legally responsible, and that the life or health of such child is thereby endangered, such Magistrate may, in his discretion, place the child under such supervision as he may think proper, and shall, if necessary, remove the child from the custody of such person.

The Magistrate of the District may order him to make a monthly allowance for the maintenance of the child at such monthly rate not exceeding fifty rupees as to such Magistrate shall seem reasonable, and if such person wilfully neglects to comply with such order, such Magistrate may, for every breach of the order, by warrant direct the amount due to be levied in manner provided by Section 307 of the Code of Criminal Procedure.

Nothing in this section shall affect the powers of Magistrates under Section 536 of the same Code.

7. This Act shall, in the first instance, extend only to the North-Western Provinces, to the Punjab, and to Oudh ; but the Governor-General of India in Council may

by order extend it to any part of the territories (other than Oudh) under the immediate administration of the Government of India ; and the Governor of Madras in Council, the Governor of Bombay in Council, and the Lieutenant-Governor of Bengal, may severally by order extend it to any part of the territories under their respective Governments.

Every order under this section made by the Governor-General of India in Council shall be published in the *Gazette of India*. Every other order made under this section shall be published in the local official Gazette.

NOTE.—The provisions of Act VIII of 1870 (an Act for the prevention of the murder of female infants) having been made applicable to all Jats resident in the villages of the Jullundur district, detailed in the subjoined list, by the Notification of the Government of the Punjab No. 3151 dated the 8th December, 1884, the following rules made by that Government in exercise of the power conferred on it by section 2 of the said Act, and confirmed by the Governor-General in Council, are hereby published for general information:

Rules for the suppression of Female Infanticide.

I.—On the introduction of these rules, a nominal register (in Form A) of all proclaimed tribes and families shall be drawn up by the police under the orders of the Magistrate of the district. In this register recognised heads of families or masters of separate households shall be entered as the heads of families, and every member of the family habitually resident in the village shall be entered by name. All persons under 12 shall be entered as children, except married female children living with their husbands, who shall, for the purposes of these rules, be deemed to be adult females.

II.—A special register (in Form B) of all births and marriages of females, and of all deaths of unmarried female children and of married females under 12 years of age and not living with their husbands, occurring in the Jat families of the villages specified in Notification No. 3151, dated the 8th December, 1884, shall be kept up by the officer in charge of the police station within whose jurisdiction such village is situated.

III.—The person who is registered as the head of a proclaimed family shall report immediately to the chaukidar of the village, the occurrence in his family of every birth, marriage, and death of a female as aforesaid, and also the illness of any female child. He shall also produce all children of his family for the inspection of a police officer, not below the rank of a Deputy Inspector, visiting the village, when required to produce them.

IV.—Every midwife knowing of, or having reason to believe in the occurrence in a proclaimed family in the village in which she resides of a birth or of the illness of a new-born child, shall at once report the fact to the chaukidar of the village.

V.—The chaukidar of the village shall immediately report to the officer in charge of the police station the occurrence, whether reported to him or not, of a birth, whether male or female, in a proclaimed family, the marriage of a female, the death of an unmarried female or a married female under 12 and not living with her husband, the illness of a female child and the removal of a pregnant woman to another village. He shall also, on the occasions of his periodical visit to the police station, report pregnancies which have been reported to him or have come to his knowledge.

VI.—The lambardars of each village shall be held responsible for the due performance by chaukidars of the duties herein imposed upon them, and shall render all assistance in their power to the police in drawing up Register A and in obtaining information of all births, marriages, and deaths occurring or about to occur in proclaimed families.

VII.—Among the Jats of the villages to which these rules apply, no person giving a female in marriage, nor any one on his behalf, shall incur any expense upon any ceremony or custom connected with her marriage in excess of that specified below. Similarly, no person receiving a female into his family in marriage shall incur, on account of the marriage, or any ceremony or custom connected therewith, expenses exceeding the total of the list here specified—

(1) On account of marriage—

	Rs.	A.	P.
Milni	1	0	0
Kamín lág	2	0	0
Lág on occasion of Phera	2	0	0
Marriage feast	25	0	0
" Khat "	51	0	0
Vessels	10	0	0
Jewels	15	0	0
Cloth and clothes	8	0	0
Expenses of lágis on occasion of " Khat "	15	0	0

(2) On occasions of Mukláwa

30 0 0

VIII.—It shall be the duty of the father or other head of the family celebrating the marriage to produce immediately before the Deputy Commissioner, or an officer deputed by him, on demand by the same, an account showing the actual expenses incurred, and to prove the correctness of the said account.

IX.—All expenses incurred in carrying these rules into effect in any village to which they may be made applicable shall be recoverable as an arrear of land revenue from the Jats of that village.

X.—No proclaimed village or family shall be exempted from the operation of these rules except by the orders of the Local Government, or in virtue of authority to that effect vested by Government in any officer. A village or family so exempted will then be struck out of Register A and the erasure initialed by the Magistrate of the district or by the District Superintendent of Police.

FORM OF REGISTER A.

Police Station.	Village.	Head of family.	ADULT MEMBERS OF FAMILY.		CHILDREN OF FAMILY.			REMARKS.
			Male.	Female.	Male.	Female.		
						Name.	Age.	
								Here reports of pregnancy may be reported

FORM OF REGISTER B.

VILLAGE.

SERIAL NUMBER.			Name of person reporting.	Head of family.	BIRTH.	MARRIAGE.	DEATH.	Signature of Registering Officer.	REMARKS.
Birth.	Marriage.	Death.			Name of father and mother and date of birth of female child.	Name, age and description of bridegroom and bride.	Name, &c., of father and mother, and name and date of birth and death of female child.		
				Name and description of.					

Police Station.						Village.
Jullundur	...	..	...	...	...	Jamsher.
Nurmahal	...	...	...	...	...	Jandiala.
Ditto	...	...	...	...	...	Samra.
Ditto	...	...	...	...	...	Bilga.
Phillour	...	...	...	...	...	Rurka.
Nurmahal	...	...	...	...	...	Bundala.
Phillour	...	...	...	...	...	Kolaita.
Ditto	...	...	...	...	...	Dosauj Kalan.
Banga	...	...	...	...	...	Pharala.

(Government of India Notification No. 232, dated 10th July 1885, Gazette of India of 11th idem).

ACT No. X of 1870.*(Passed on the 1st April 1870).*

An Act for the acquisition of land for public purposes and for Companies.

Whereas it is expedient to consolidate and amend the law for the acquisition of land needed for public purposes and for Companies, and for determining the amount of compensation to be made on account of such acquisition; It is hereby enacted as follows :—

PART I.**PRELIMINARY.**

Short title. 1. This Act may be called “The Land Acquisition Act, 1870” :

Local extent. It extends to the whole of British India ;

Commencement. And it shall come into force on the first day of June 1870.

Repeal of Acts. 2. On and from such day Act No. VI of 1857 (*for the acquisition of land for public purposes*), Act No. II of 1861 (*to amend Act No. VI of 1857*), and Act No. XXII of 1863 (*to provide for taking land for works of public utility to be constructed by private persons or companies and for regulating the construction and use of works on land so taken*), shall be repealed.

All references made to any of the said Acts in subsequent Acts, orders, or contracts, shall be read as if made to this Act.

Interpretation-clause. 3. In this Act—

The expression “land” includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth :

“Land.” The expression “person interested” includes all persons claiming an interest in compensation to be made on account of the acquisition of land under this Act :

“Person interested.” The expression “Collector” means the Collector of a District, and includes a Deputy Commissioner and any officer specially appointed by the Local Government to perform the functions of a Collector under this Act :

“Collector.” The expression “Court” means in the Regulation Provinces, the Punjab, British Burma and Sindh, a principal Civil Court of original jurisdiction,

and in the Non-regulation Provinces other than the Punjab, British Burma and Sindh, the Court of a Commissioner of a Division, *

unless when the Local Government has appointed (as it is hereby empowered to do), either specially for any case, or generally within any specified local limits, a judicial officer to perform the functions of a Judge under this Act, and then the expression “Court” means the Court of such officer :

NOTE.—As amended by Act XVIII of 1884, Section 74.

* So much of this section as declares the Commissioner of a Division to be a principal Civil Court of original jurisdiction in Oudh is repealed by Act XIII of 1879.

The expression "Company" means a Company registered under the Indian Companies' Act, 1866, or formed in pursuance of an Act of Parliament, or by Royal Charter or Letters Patent :

And the following persons shall be deemed persons "entitled to act" as and to the extent hereinafter provided (that is to say)—

trustees for other persons beneficially interested, shall be deemed the persons entitled to act with reference to any such case, and that to the same extent as the persons beneficially interested could have acted if free from disability :

a married woman, in cases to which the English law is applicable, shall be deemed the person so entitled to act, and, whether of full age or not, to the same extent as if she were unmarried and of full age ; and

the guardians of minors and the committees of lunatics or idiots shall be deemed respectively the persons so entitled to act, to the same extent as the minors, lunatics, or idiots themselves, if free from disability, could have acted.

NOTE.—The Hon'ble the Lieutenant Governor is pleased to direct, under Section 23 (b) of Act XVIII of 1881, that the Divisional Court shall, for the purposes of Act X of 1870, be deemed to be the principal Civil Court of original jurisdiction for each of the districts comprised in the Division.

This Notification cancels Punjab Government Notification No 1458, dated the 16th October 1871. (*Punjab Government Notification No. 1791, dated 26th February 1885, Punjab Gazette of same date, Part I, p. 1431*)

PART II.

ACQUISITION.

Preliminary Investigation.

4 Whenever it appears to the Local Government that land in any locality is likely to be needed for any public purpose, a notification to that effect shall be published in the local Gazette, and the Collector shall cause public notice of the substance of such notification to be given at convenient places in the said locality.

Thereupon it shall be lawful for any officer either generally or specially authorized by such Government in this behalf, and for his servants and workmen,

to enter upon and survey and take levels of any land in such locality :

to dig or bore into the sub-soil :

to do all other acts necessary to ascertain whether the land is adapted for such purpose :

to set out the boundaries of the land proposed to be taken and the intended line of the work (if any) proposed to be made thereon :

Power to mark out line.

to mark such levels, boundaries and line by placing marks and cutting trenches :

and, where otherwise the survey cannot be completed and the levels taken and the boundaries and line marked, to cut
 Power to clear land. down and clear away any part of any standing crop, fence or jungle.

Provided that no person shall enter into any building or upon any enclosed court or garden attached to a dwelling-house
 Previous notice of entry. (unless with the consent of the occupier thereof)
 without previously giving such occupier at least seven days' notice in writing of his intention to do so.

5. The officer so authorized shall at the time of such entry pay or tender payment for all necessary damage to be done
 Payment for damage. as aforesaid, and in case of dispute as to the sufficiency of the amount so paid or tendered he shall at once refer the dispute to the decision of the Collector, and such decision shall be final.

Declaration of intended Acquisition.

6. Subject to the provisions of Part VII of this Act, whenever it appears to the Local Government that any particular land is needed for a public purpose, or for a Company, a declaration shall be made to that effect under the signature of a Secretary to such Government, or of some officer duly authorized to certify its orders :

Provided that no such declaration shall be made unless the compensation to be awarded for such property is to be paid out of public revenues, or out of some municipal fund, or by a Company.

The declaration shall be published in the local official Gazette, and shall state the district or other territorial division in which
 Contents of declaration. the land is situate, the purpose for which it is needed, its approximate area, and, where a plan shall have been made of the land, the place where such plan may be inspected.

The said declaration shall be conclusive evidence that the land is needed for a public purpose, or for a Company, as the case may be, and after making such declaration, the Local Government may acquire the land in manner hereinafter appearing.

7. Whenever any land shall have been so declared to be needed for a public purpose, or for a Company, the Local Government, or some officer authorized by the Local Government in this behalf, shall direct the Collector to take order for the acquisition of the land.

8. The Collector shall thereupon cause the land (unless it has been already marked out under section four) to be marked out. He shall also cause it to be measured, and (if no plan has been made thereof) a plan to be made of the same.

Plan.

9. The Collector shall then cause public notice to be given at convenient places on or near the land to be taken, stating that the Government intends to take possession of the land, and that claims to compensation for all interests in such land may be made to him.

Such notice shall state the particulars of the land so needed, and shall require all persons interested in the land to appear personally or by agent before the Collector at a time and place therein mentioned (such time not being earlier than fifteen days after the date of publication of the notice), and to state the nature of their respective interests in the land, and the amount and particulars of their claims to compensation for such interests.

The Collector shall also serve notice to the same effect on the occupier (if any) of such land, and all such persons known or believed to be interested therein, or to be entitled to act for persons so interested, as reside, or have agents authorized to receive service on their behalf, within the revenue district in which the land is situate.

In case any person so interested resides elsewhere, and has no such agent, the notice shall be sent to him by post.

10. The Collector may also require any such person to deliver to him a statement containing, so far as may be practicable, the name of every other person possessing any interest in the land or any part thereof as co-proprietor, sub-proprietor, mortgagee, tenant, or otherwise, and of the nature of such interest, and of the rents and profits (if any) received or receivable on account thereof for the year next preceding the date of the statement.

Every person required to make or deliver a statement under this section or section nine, shall be deemed to be legally bound to do so within the meaning of sections one hundred and seventy-five and one hundred and seventy-six of the Indian Penal Code.

Enquiry into Value and Claims.

11. On the day so fixed, the Collector shall proceed to enquire summarily into the value of the land, and to determine the amount of compensation which, in his opinion, should be allowed therefor, and shall tender such amount to the persons interested who have attended in pursuance of the notice.

For the purpose of such enquiry, the Collector shall have power to summon and enforce the attendance of witnesses and to compel the production of documents by the same means and (as far as may be) in the same manner as is provided in the case of a civil Court under the Code of Civil Procedure.

12. The Collector may, if no claimant attends pursuant to the notice, or if for any other cause he thinks fit, from time to time postpone the enquiry to a day to be fixed by him.

13. In determining the amount of compensation the Collector shall take into consideration the matters mentioned in section twenty-four, and shall not take into consideration any of the matters mentioned in section twenty-five.

Matters to be considered and matters to be neglected.

Award by Collector.

14. If the Collector and the persons interested agree as to the amount of compensation to be allowed, the Collector shall make an award under his hand for the same.

Award in case of agreement as to compensation.

Such award shall be filed in the Collector's office, and shall be conclusive evidence, as between the Collector and the persons interested, of the value of the land and the amount of compensation allowed for the same.

Award to be filed and to be evidence.

Reference where no claimant attends, or if Collector and persons interested cannot agree.

15. When the Collector proceeds to make the enquiry as aforesaid, whether on the day originally fixed for the enquiry or on the day to which it may have been postponed,

if no claimant attends,

or if the Collector considers that further enquiry as to the nature of the claim ought to be made by the Court,

or if any person whom the Collector has reason to think interested does not attend,

or if the Collector is unable to agree with the persons interested who have attended in pursuance of the notice as to the amount of compensation to be allowed,

or if upon the said enquiry any question respecting the title to the land or any rights thereto or interests therein arise between or among two or more persons making conflicting claims in respect thereof,

the Collector shall refer the matter to the determination of the Court in manner hereinafter appearing.

Taking Possession.

16. When the Collector has made an award under section fourteen or a reference to the Court under section fifteen, he may take possession of the land, which shall thereupon vest absolutely in the Government free from all encumbrances.

Power to take possession.

17. In cases of urgency, whenever the Local Government so directs, the Collector (though no such reference has been directed or award made) may, on the expiration of fifteen days from the publication of the notice mentioned in the first paragraph of section nine, take possession of any waste or arable land needed for public purposes or for a Company.

Power to take possession in cases of urgency.

Such land shall thereupon vest absolutely in the Government free from all encumbrances.

The Collector shall offer to the persons interested compensation for the standing crops and trees (if any) on such land; and in case such offer is not accepted, the value of such crops and trees shall be allowed for in awarding compensation for the land under the provisions herein contained.

PART III.

REFERENCE TO COURT AND PROCEDURE THEREON.

18. In making a reference under section fifteen, the Collector shall state for the information of the Court, in writing under his hand,

- (a) the situation and extent of the land needed,
 (b) the names of the persons whom he has reason to think interested in such land,
 (c) the amount awarded for damages and paid or tendered under sections five and seventeen, or either of them, the amount of compensation tendered for the land under section eleven, or, if no claimant has attended pursuant to the notice mentioned in section nine, the amount of compensation which the Collector is willing to give to the persons interested, and
 (d) the grounds on which the amount of compensation was determined.

19. The Court shall thereupon cause to be served on each of the persons so named a notice requiring him (if he has not made a claim under section nine) to state to the Court, on or before a day to be therein mentioned, the sum which he claims as compensation for his interest in the land so needed.

The Court shall also cause a notice to be served on the Collector and each of such persons requiring them to appoint, on or before a day to be therein mentioned, two qualified assessors (one to be nominated by the Collector, and the other by the persons interested) for the purpose of aiding the Judge in determining the amount of the compensation.

If no claimant has attended pursuant to the notice mentioned in section nine, the Court shall cause to be affixed on some conspicuous place, on or near the land needed, a notice to the effect that, if the persons interested in such land do not, on or before a day to be therein mentioned, appear in Court and state the nature of their respective interests in the land and the amount and particulars of their claims to compensation, and nominate a qualified assessor, the Court will proceed to determine such amount.

20. In case of failure to nominate either of such assessors within the time so specified, the Judge shall himself appoint an assessor in his stead.

21. As soon as the assessors have been appointed, the Judge and the assessors shall proceed to determine the amount of the compensation.

22. If before such amount is determined, any of the assessors dies or desires to be discharged, or refuses or neglects, or becomes incapable to act, the party by whom he was appointed may appoint some other qualified person to act in his place.

If the assessor so dying, or desiring to be discharged, or refusing, or neglecting, or becoming incapable were appointed by the Judge,

or, in the case of an assessor appointed by either party, if for the space of seven days after notice from the Court for that purpose the party who appointed such assessor fails to appoint another,

the Judge shall appoint some other qualified person in his stead.

Every assessor so substituted shall have the same powers as were vested in the former assessor at the time of his so dying, or desiring to be discharged, or refusing or neglecting or becoming incapable.

23. Every proceeding under section twenty-one shall take place in open Court, and all persons entitled to practice in any civil Court shall be entitled to appear, plead and act, or to appear and act (as the case may be), in such proceeding.

24. In determining the amount of compensation to be awarded for land acquired under this Act, the Judge and assessors shall take into consideration—

First, the market-value, at the time of awarding compensation, of such land :

Secondly, the damage (if any) sustained by the person interested, at the time of awarding compensation, by reason of severing such land from his other land :

Thirdly, the damage (if any) sustained by the person interested, at the time of awarding compensation, by reason of the acquisition injuriously affecting his other property, whether moveable or immoveable, in any other manner, or his earnings ; and

Fourthly, if, in consequence of the acquisition, he is compelled to change his residence, the reasonable expenses (if any) incidental to such change.

25. But the Judge or assessors shall not take into consideration—

First, the degree of urgency which has led to the acquisition :

Secondly, any disinclination of the person interested to part with the land acquired :

Thirdly, any damage sustained by him which, if caused by a private person, would not render such person liable to a suit :

Fourthly, any damage which, after the time of awarding compensation, is likely to be caused by or in consequence of the use to which the land acquired will be put :

Fifthly, any increase to the value of the land acquired likely to accrue from the use to which it will be put when acquired :

Sixthly, any increase to the value of the other land of the person interested, likely to accrue from the use to which the land acquired will be put : or

Seventhly, any outlay or improvements on such land made, commenced or effected with the intention of enhancing the compensation to be awarded therefor under this Act.

26. Where the person interested has made a claim to compensation pursuant to any notice mentioned in section nine or in section nineteen, the amount awarded to him shall not exceed the amount so claimed, or be less than the amount tendered by the Collector under section eleven.

Where the person interested has refused to make such claim, or has omitted, without sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded may be less than, and shall in no case exceed, the amount so tendered.

Where the person interested has omitted for a sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded to him shall not be less than, and may exceed, the amount so tendered.

The provisions of this and the two preceding sections shall be read to every assessor, in a language which he understands, before he gives his opinion as to the amount of compensation to be awarded under this Act.

NOTE.—See Section 10 of Act VIII of 1873.

Record of assessors' opinions.

27. The opinion of each assessor shall be given orally, and shall be recorded in writing by the Judge.

28. In case of a difference of opinion between the Judge and the assessors or any of them upon a question of law or practice or usage having the force of law, the opinion of the Judge shall prevail, and there shall be no appeal therefrom.

Difference on questions of law.

Agreement as to amount of compensation.

29. In case the Judge and one or both of the assessors agree as to the amount of compensation, their decision thereon shall be final.

30. In case of difference of opinion between the Judge and both of the assessors as to the amount of compensation, the decision of the Judge shall prevail, subject to the appeal allowed under section thirty-five.

Difference as to the amount of compensation.

31. Every assessor appointed under this Act, not being an officer of Government, shall receive such fee for his services as the Judge shall direct, provided that such fee shall not exceed five hundred rupees.

Assessors' fees.

Such fee shall be deemed to be costs in the proceeding.

Costs of proceedings taken by order of Court.

32. The costs of all proceedings taken under this Part by order of the Court shall, in the first instance, be paid by the Collector.

33. Where the amount awarded does not exceed the sum tendered by the Collector, the costs of all proceedings under this Part shall be paid by the person interested.

Party to pay costs.

Where the amount awarded exceeds the sum so tendered, the costs shall be paid by the Collector.

34. Every award made under this Part shall be made in writing by the Judge and the assessors, and shall be signed by the Judge and the assessors, and shall be under the first clause of section twenty-four, and shall be respectively awarded under the second, and the third, section, together with the grounds of

Awards to be in writing.

the Judge and the assessors therein, and shall be

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Award to state amount of costs.

It shall also state the amount of costs incurred in the proceedings under this Part, and by what persons and in what proportions they are to be paid.

The costs (if any) payable by the person interested, and not deducted under section forty-two, may be recovered as if they were costs incurred in a suit, and as if the award were the decree therein.

Recovery of costs.

35. If the Judge differs from both the assessors as to the amount of compensation, he shall pronounce his decision, and the Collector or the person interested (as the case may be) may appeal therefrom to the Court of the District Judge, unless the Judge whose decision is appealed from is the District Judge, or unless the amount which the Judge proposes to award exceeds five thousand rupees, in either of which cases the appeal shall lie to the High Court.

Every appeal under this section shall be presented within the time and in manner provided by the Code of Civil Procedure for regular appeals in suits.

Provisions of Code of Civil Procedure made applicable.

36. The following provisions of the Code of Civil Procedure,—

- (a) as to adding parties,
- (b) as to adjournment,
- (c) as to death, marriage, and bankruptcy or insolvency of parties,
- (d) as to summoning witnesses and their attendance,
- (e) as to examination of parties and witnesses,
- (f) as to production of documents, and
- (g) as to commissions to examine absent witnesses and to make local enquiries,

shall apply, so far as may be, to proceedings before the Court.

PART IV.

APPORTIONMENT OF COMPENSATION.

37. Where there are several persons interested, if such persons agree in the apportionment of the compensation, the particulars of such apportionment shall be specified in the award, and as between such persons the award shall be conclusive evidence of the correctness of the apportionment.

38. When the amount of compensation has been settled under section fourteen, if any dispute arises as to the apportionment of the same or any part thereof, the Collector shall refer such dispute to the decision of the Court.

39. When the amount of compensation has been settled by the Court, and there is any dispute as to the apportionment thereof, or when a reference to the Court has been made under section thirty-eight, the Judge sitting shall decide the proportion in which the persons interested are entitled to such amount.

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An appeal shall lie from such decision to the High Court, unless the Judge whose decision is appealed from is not the District Judge, in which case the appeal shall lie in the first instance to the District Judge.

Every appeal under this section shall be presented within the time and in manner provided for regular appeals in suits.

PART V.

PAYMENT.

40. Payment of the compensation shall be made by the Collector according to the award to the persons named therein, or, in the case of an appeal under section thirty-nine, according to the decision on such appeal :

Payment of compensation to whom made.

Provided that nothing herein contained shall affect the liability of any person who may receive the whole or any part of any compensation awarded under this Act, to pay the same to the person lawfully entitled thereto.

Proviso.

41. When the amount of the compensation has been settled under section fourteen, if the persons interested shall so desire, the Collector shall on the making of the said award pay the amount of such compensation, and take possession of the land :

Payment on making award by Collector.

Provided that, in any case where immediate possession is not required, he may allow the occupants (if any) of the land to remain in occupation of the same, upon such terms as he and they may agree on, until possession of the land is required.

42. In addition to the amount of any compensation awarded under Part II or Part III of this Act, the Collector shall in consideration of the compulsory nature of the acquisition, pay fifteen per centum on the market-value mentioned in section twenty-four.

Percentage on market-value.

When the amount of such compensation is not paid on taking possession, the Collector shall pay the amount awarded and the said percentage with interest on such amount and percentage at the rate of six per centum per annum from the time of so taking possession :

Payment with interest.

Provided that the costs, if any, payable to the Collector by the person interested, shall be deducted from such amount and percentage.

Provided that, in cases where the decision of the Court under Part III or Part IV of this Act is liable to appeal, the Collector shall not pay the amount of compensation or the percentage, or any part thereof, until the time for appealing against such decision has expired, and no appeal shall have been presented against such decision, or until any such appeal shall have been disposed of.

Time of payment in appealable cases.

PART VI.

TEMPORARY OCCUPATION OF LAND.

43. Subject to the provisions of Part VII of this Act, whenever it appears to the Local Government that the temporary occupation and use of any waste or arable land are needed for any public purpose, or for a Company, the Local Government may direct the Collector to procure the occupation and use of the same for such term as it shall think fit, not exceeding three years from the commencement of such occupation.

The Collector shall thereupon give notice in writing to the persons interested in such land of the purpose for which the same is needed, and shall, for the occupation and use thereof for such term as aforesaid, and for the materials (if any) to be taken therefrom, pay to them such compensation, either in a gross sum of money, or by monthly or other periodical payments, as shall be agreed upon in writing between him and such persons respectively.

In case the Collector and the persons interested differ as to the sufficiency of the compensation, the Collector shall refer such difference for the final order of the Court.

Power to enter and take possession.

44. On payment of such compensation,

or on executing such agreement,

or on making a reference under section forty-three,

the Collector may enter upon and take possession of the land, and use or permit the use thereof in accordance with the terms of the said notice.

And on the expiration of the term, the Collector shall make or tender to the persons interested compensation for the damage (if any) done to the land and not provided for by the agreement, and shall restore the land to the persons interested therein :

Provided that, if the land has become permanently unfit to be used for the purpose for which it was used immediately before the commencement of such term, and if the persons interested shall so require, the Local Government shall proceed under this Act to acquire the land as if it was needed permanently for a public purpose or for a Company.

45. In case the Collector and persons interested differ as to the condition of the land at the expiration of the term, or as to any matter connected with the said agreement, the Collector shall refer such difference for the final order of the Court, and on such reference, or on a reference under section forty-three, the Judge sitting alone shall decide the difference referred.

PART VII.

ACQUISITION OF LAND FOR COMPANIES.

46. Subject to such rules as the Governor-General of India in Council may from time to time prescribe in this behalf, the Local Government may authorize any officer of any Company desiring to acquire land for its purposes to exercise the powers conferred by section four.

In every such case section four shall be construed as if, for the words "for such purpose," the words "for the purposes of the Company" were substituted, and section five shall be construed as if after the words "the officer," the words "of the Company" were inserted.

47. The provisions of section six to section forty-five (both inclusive) shall not be put in force in order to acquire land for any Company, unless with the previous consent of the Local Government, and unless the Company shall have executed the agreement hereinafter mentioned.

Consent of Local Government to acquisition.

Execution of agreement

48. Such consent shall not be given unless the Local Government be satisfied, by an enquiry held as hereinafter provided—

Previous enquiry.

(1) that such acquisition is needed for the construction of some work, and

(2) that such work is likely to prove useful to the public.

Such enquiry shall be held by such officer and at such time and place as the Local Government shall appoint.

Such officer may summon and enforce the attendance of witnesses, and compel the production of documents by the same means and, as far as possible, in the same manner as is provided by the Code of Civil Procedure in the case of a civil Court.

49. Such officer shall report to the Local Government the result of the enquiry, and if the Local Government is satisfied that the proposed acquisition is needed for the construction of a work, and that such work is likely to prove useful to the public, it shall, subject to such rules as the Governor-General of India in Council may from time to time prescribe in this behalf, require the Company to enter into an agreement with the Secretary of State for India in Council providing to the satisfaction of the Local Government for the following matters, namely :—

- (1). The payment to Government of the cost of the acquisition :
- (2). The transfer, on such payment, of the land to the Company :
- (3). The terms on which the land shall be held by the Company :
- (4). The time within which, and the conditions on which, the work shall be executed and maintained : and
- (5). The terms on which the public shall be entitled to use the work.

50. Every such agreement shall, as soon as may be after its execution, be published in the *Gazette of India*, and also in the local official Gazette, and shall thereupon (so far as regards the terms on which the public shall be entitled to use the work) have the same effect as if it had formed part of this Act.

Publication of agreement.

PART VIII.

MISCELLANEOUS.

51. Service of any notice under this Act shall be made by delivering or tendering a copy thereof, signed, in the case of a notice under section four, by the officer therein mentioned, and, in the case of any other notice, by or by order of the Collector or the Judge.

Whenever it may be practicable, the service of the notice shall be made on the person therein named.

When such person cannot be found, the service may be made on any adult male member of his family residing with him ; and if no such adult male member can be found, the notice may be served by fixing the copy on the outer door of the house in which the person therein named ordinarily dwells or carries on business.

52. Whoever wilfully obstructs any person in doing any of the acts authorized by section four or section eight, or wilfully fills up, destroys, damages, or displaces any trench or mark made under section four, shall, on conviction before a Magistrate, be liable to imprisonment for any term not exceeding one month, or to fine not exceeding fifty rupees, or to both.

53. If the Collector is opposed or impeded in taking possession under this Act of any land, he shall, if a Magistrate, enforce the surrender of the land to himself, and if not a Magistrate, he shall apply to a Magistrate or (within the towns of Calcutta, Madras and Bombay) to the Commissioner of Police, and such Magistrate or Commissioner (as the case may be) shall enforce the surrender of the land to the Collector.

54. Except in the case provided for in section forty-four, nothing in this Act shall be taken to compel the Government to complete the acquisition of any land unless an award shall have been made or reference directed under the provisions hereinbefore contained.

But whenever the Government declines to complete any such acquisition, the Collector shall determine the amount of compensation due for the damage (if any) done to such land under section four or section eight, and not already paid for under section five, and shall pay such amount to the person injured.

55. The provisions of this Act shall not be put in force for the purpose of acquiring a part only of any house, manufactory or other building, if the owner desire that the whole of such house, manufactory or building shall be so acquired.

56. Where the provisions of this Act are put in force for the purpose of acquiring land at the cost of any Municipal fund, or of any Company, the charges incurred by the Collector in such acquisition shall be defrayed from or by such fund or Company.

57. No award or agreement made under this Act shall be chargeable with stamp-duty, and no person claiming under any such award or agreement shall be liable to pay any fee for a copy of the same.

Exemption from stamp-duty and fees..
Bar of suits to set aside awards under Act.

53. No suit shall be brought to set aside an award under this Act.

And no suit or other proceeding shall be commenced or prosecuted against any person for anything done in pursuance of this Act, without giving to such person a month's previous notice in writing of the intended proceeding, and of the cause thereof, nor after the expiration of three months from the accrual of the cause of suit or other proceeding.

Limitation of suits for anything done in pursuance of Act.
NOTE.—So much of this section as relates to the limitation of suits is repealed by Act IX of 1871.

59. The Local Government shall have power to make rules consistent with this Act for the guidance of officers in all matters connected with its enforcement, and may from time to time alter and add to the rules so made.

Power to make rules.
All such rules, alterations, and additions shall, when sanctioned by the Governor-General in Council, be published in the local official Gazette, and shall thereupon have the force of law.

Publication of rules.
NOTES.—(a). The Punjab Government having directed that applications for publication of draft Notifications under the Land Acquisition Act, 1870, shall in future be submitted to Government through Commissioners of Divisions and not through the Financial Commissioner, and having also requested this office to draw attention in a convenient way to all rules and orders issued from time to time in connection with the acquisition of land for public purposes, the subjoined consolidated rules are published for guidance of all officers concerned.

2. The following Circulars and Circular Memoranda are hereby cancelled :—

Circular No. 27 of 1882.
Circular No. 26 of 1883.
Circular No. 11 of 1884.
Circular No. 23 of 1884.
Circular No. 49 of 1884.
Circular No. 51 of 1884.
Circular No. 20 of 1886.
Circular No. 57 of 1886.
Circular No. 67 of 1886.
Circular No. 42 of 1887.
Circular Memo. No. 17 of 1887.
Circular Memo. No. 25 of 1888.

3. It will be seen that the words "and the Financial Commissioner" have been omitted in Rule XIV.

4. With advertence to the new procedure now prescribed, the especial attention of Commissioners is invited to Rule XIV, Rule XV and Rule XVI (formerly XVII) with its two new paragraphs.

5. In Rule XXX (formerly XXXI) an addition has been made, requiring submission along with Reduction and Compensation statements of copy of the Notification under which the land was acquired.

Scope of this Circular.

6. The subject is divided into four Chapters—

- I.—General.
- II.—Guaranteed Railways.
- III.—State Railways.
- IV.—Military purposes.

Chapter I deals with the provisions of the Act, and embodies all administrative orders issued, which apply generally to every case in which land is acquired under the Act.

The three following Chapters are of special application, and contain supplementary rules regarding the acquisition of land for the several objects of which they treat. When these rules differ from the administrative orders given in Chapter I, they are to be followed in preference to such orders in regard to that branch of the subject to which they refer. In regard to points on which there are no special instructions in these Chapters, the general rules in Chapter I must be held to apply.

CHAPTER I.—GENERAL.

Chapter I is divided into—

- A. Preliminary estimates.
- B. Modes of acquisition.
- C. Payment of compensation.
- D. Reduction of land revenue.
- E. Temporary occupation.
- F. Abandonment.
- G. Registers and record.
- H. Disputes as to boundaries of land acquired by Government.

A.—PRELIMINARY ESTIMATES.

I.—In all cases in which it is necessary to provide land for public works at the expense of Government, the Departmental Officers entrusted with the execution or supervision of the work will cause to be prepared complete estimates of the probable cost of such land, the sanction of which estimates will be an essential preliminary to the purchase of the land, whether by private bargain or under the operation of Act X of 1870.

The Departmental Officer should, in the first instance, consult the Civil authorities, and obtain from them an idea of the probable cost of land per acre, or otherwise, together with the value of buildings, &c., on the property.

II.—The estimate shall state the area to be occupied as accurately as circumstances will admit, and the rates of charge shall be duly checked and vouched by the Revenue Officers of the district. Payment for houses, &c., should be entered separately from the land. A general statement of the character of the land, and the property for which special compensation is likely to be claimed, should accompany the estimate in the form of a preliminary report.

III.—In dealing with railways, roads and canals, and the like, where the exact area cannot be ascertained in anticipation, the best practicable estimate should be framed in the first instance; and a revised estimate should be prepared after the land plans have been completed, if the difference in quantities or probable cost is such as to require a further sanction of outlay.

The revised estimate should be submitted as early as possible. (*P. G. No. 1795, dated 16th December 1875*).

IV.—If the preliminary enquiry necessary to the preparation of these estimates cannot be efficiently made otherwise, the Departmental Officers will submit an application in the form given in Appendix No. I for the notification of the land likely to be required, under Section 4 of Act X of 1870, through the usual departmental channel, to the Secretary to Government in the Department concerned for publication in the Gazette. The measures which may be taken after publication of this notification are described in Section 4 of the Act. The Local Government* has under this section invested all Executive Engineers of the Public Works Department, including the Irrigation and State Railway Departments, with authority to take these measures, which are designed to enable officers so empowered to ascertain whether the land is adapted for the purpose, and to make a complete preliminary enquiry. (*P. G. No. 1795, dated 16th December 1875*).

V.—Deputy Commissioners are required to render any assistance and information as to the measurements, value, ownership, &c., of the land which may be necessary to enable the investigating officer to prepare an approximate estimate of the land for departmental purposes. If called upon to do so by the Departmental Officers, the Deputy Commissioner will himself frame an estimate of the cost of occupying the land. Every effort should be made to ascertain the correct value of the land, and to prepare a reliable estimate.

VI.—In all cases in which an accurate survey and plan is required for canal, railway or departmental purposes, this part of the work should be performed by the Departmental Officer concerned, although the remaining proceedings may be conducted by the Deputy Commissioner.

VII.—The general rules as to the powers of various authorities in the sanction of estimates for works will be held to be applicable to estimates for the purchase of land, and the rule prohibiting the irregular extension of powers of sanction by subdividing the projects is also equally applicable to the case of land. In all projects requiring

* Notification No. 675, dated 13th May 1870, paragraph 2. "His Honor is further pleased to authorise all Executive Engineers of the Public Works Department (including Canals and State Railways) to conduct the preliminary investigations described in Section 4" of the said Act (X of 1870).

the purchase of land the cost of the land is to be held to be an integral portion of the entire outlay on which the power of sanction is made to depend.

B.—MODES OF ACQUISITION.

VIII.—When the preliminary estimate has been sanctioned by competent authority (see Rule VII), the land may be occupied in one of two methods—

(1). By private negotiation.

(2). Under the provisions of Act X of 1870. (P. G. No. 1795, dated 18th December 1875).

IX.—The first of these methods should never be resorted to when the title of the possessor of the property to be acquired is doubtful, or where there is reason to believe that it is encumbered to an unknown extent. In such cases it will be desirable to resort to the procedure under the Act in preference to acquisition by private bargain, as in the latter case the Government would be liable to the risk incurred by ordinary purchasers of encumbered real property; whereas under Act X of 1870, Section 16, the Government acquires a clear title.

Note.—Attention is also invited to the annexed extract from a letter from the Government of India to the Punjab Government, in which further directions are given as to the circumstances in which the acquisition of land by private negotiation is expedient.

EXTRACT.

No. 4, dated 20th July 1878, from A. O. HUME, Esq., Secy. to Government of India, Department of Agriculture, Revenue and Commerce, to LEPEL GRIFFIN, Esq., Secy. to Govt., Punjab.

"2. It should be borne in mind that an indefeasible title is secured by proceeding under the Act, and that the procedure therein provided seems in most cases calculated to save Government from the risk of paying more than the true market value (plus the addition of 15 per cent. directed in Section 42) for the land. It may, however, occur (especially in localities where the tenure of land is of a simple character) that there is no risk in respect of title in securing land by private bargain, that the price which would have to be paid in this way would be less than that likely to be awarded under the Act, and that more speedy acquisition of the land would thus be secured."

When land is required for public purposes, the Public Works Officer should, in the first instance, consult the Civil authorities, and obtain from them the fullest possible information of the probable cost of the land per acre or otherwise, together with the value of buildings, &c., on the property. Upon the information thus obtained, an estimate should be framed and submitted for sanction. When sanction to an estimate framed, as above directed, has been obtained, the Executive Engineer or other Public Works Officer concerned should, in the first instance, in concert with the Civil Officers, try to arrange for purchase of the land by voluntary agreement, but when this cannot be arranged, he should commit the matter to the Civil authorities, who should carefully consider whether the land is likely to be obtained for the estimated sum if the Act X of 1870 is put in force; and if there is not likely to be any considerable excess, he should take the steps necessary to put the Act in force. If, on the contrary, there is likely to be considerable excess, reference should again be made by the Civil Officer to the Public Works Officer to ascertain whether the object sought cannot be secured otherwise, either by obtaining some other plot of land than what was originally intended, or in some other manner; and the latter should, if necessary, submit a revised estimate for sanction.

The arrangements between the Officers of the Public Works Department and the local Civil authorities to determine what land to take up should be made without divulging the intentions of the Government, so as to admit of a private bargain being made before any enhancement of prices has occurred.

X.—When land is taken up under some general scheme for a canal, railway, or an important road, the Department concerned will usually determine whether it is all to be taken up under the Act, or how far private negotiation is to be allowed.

1.—Acquisition of land by private negotiation.

XI.—An acquisition commenced by a declaration under Section 4, or even under Section 6, of the Act may be completed by private negotiation without any further resort to the Act, provided that no award has been made under Section 14, or a reference to a Civil Court directed under Section 15 (see Section 54 of the Act).

XII.—In all cases of private negotiation the proceedings of Executive Officers are subject to the approval and confirmation of the authority whose sanction is sufficient for the execution of the work, including the cost of occupation of the land.

XIII.—Subject to the proviso in Rule XII, the private negotiation will be effected by the Departmental Officer entrusted with the execution or supervision of the work.

The Revenue authorities will give all possible assistance in the appraisement of property and the negotiations with the owners, and, if necessary, the Departmental Officer should take the precaution of ascertaining from the Deputy Commissioner that payment is not being made to the wrong parties.

[The Government has never undertaken to pay for land occupied for public purposes a higher price than is commonly paid by private purchasers. The principles on which the price or compensation is to be fixed are stated very clearly in Sections 13, 24 and 25 of the Act, and of these the chief one is that only the market value of the land shall be paid. The Government of India's rules for the guidance of officers in acquiring land for public purposes throw on to Revenue Officers the responsibility of correctly advising Departmental Officers as to the value of land which they propose to acquire, equally when the first estimates are prepared and when negotiations for purchase by private agreement are in progress. And if, on either of these two occasions, the Revenue Officer advises the Departmental officer to pay a higher price for the land than its market value, without expressly stating that the price is more than could be awarded under the Act, such advice is distinctly misleading. And in giving it the Revenue Officer incurs the same responsibility as he would incur if he were to make an award under the Act of 1870, which is at variance with the directions contained in Sections 24 and 25 of the Act.]

[Kánungos and Patwáris can properly be employed in preparing lists of the transactions, but to call on them for their opinion as to the price claimable is to delegate to them a duty which, both by the Act and by the rules, is reserved to the officers to whom they are subordinate.]

2.—Acquisition of land under Act X of 1870.

XIV.—When it has been determined that the Act is to be put in force for the acquisition of land, application for the publication of a notification under Section 6 will be made by the Departmental Officer to the Controlling Officer of the Department, who will forward it, through the Commissioner of the Division, to the Secretary to Government in the Department concerned. The notification will be drawn up in the form given in Appendix No. II, and will be submitted in duplicate. The forms must be printed and not in manuscript. The duplicate of the notification should be sent up unsigned.

[In cases in which it is proposed to transfer land, already in the possession of Government, from one Department to another, proceedings under Act X of 1870 are inappropriate. The Department for which the land is newly required should apply to Government for the necessary transfer orders.]

XV.—Before submission through the channels prescribed in Rule XIV to the Secretary to Government in the Department concerned, the application will be referred to the Deputy Commissioner of the district concerned with a view to having the entries in the application, the names of tahsils, villages, &c., checked prior to the publication in the Gazette.

[When a draft notification for the acquisition of land is received by a Deputy Commissioner under this Rule from the Departmental Officer concerned, it is not necessary for the Deputy Commissioner at this stage to check the areas stated in the notification. He should confine his check to the names of tahsils and villages and other major points of description; and for this purpose it should rarely be necessary to refer the draft notifications to the Tahsil office or to the Patwari for examination.]

It is only after the publication of the notification and schedule under Section 6 of the Act and after the Deputy Commissioner has been directed under Section 7 to take orders for the acquisition of the land, that detailed and accurate measurements*

*See Section 8 of the Act. by the Revenue authorities are required, and ordinarily it is not until this stage is reached that an officer who has been specially deputed in any case to assist in taking up the land should commence his duties by making awards of compensation for the land actually taken up, and supervising the preparation of the statements required by this Circular.

Similarly the proceedings of the officer employed in acquiring the land should not be stayed merely because he finds a discrepancy between the notification and the land marked out for acquisition. Provided the notification issued describes the land with approximate correctness and the owners in this and other ways have had due notice of Government's intention to acquire the land, the acquisition should be completed.]

XVI. (i). The application, when forwarded to the Commissioner, will be accompanied by a statement or explanation showing—

(a)—Whether there is specific budget provision for the compensation to be paid.

(b)—Whether the endeavours to obtain the land by private negotiation have been unsuccessful or have been considered inexpedient.

(ii). Commissioners of Divisions should be careful to see that notifications for the acquisition of lands for a public purpose are forwarded to the proper Department of Government. In the case of notifications of land required for the purposes of works under the Irrigation Department, there is no room for doubt. All such notifications are already forwarded direct to the Joint-Secretary, Irrigation Department, and are dealt with in that Department. When lands which it is desired to acquire on behalf of the Irrigation Department are in possession of the Forest Department, the applications for acquisition will in future be forwarded by the Joint-Secretary to the Civil Department for disposal instead of to the Financial Commissioner as heretofore.

(iii). All applications relating to—

(1) Works under the management and control of the Department of Public Works, General Branch ;

(2) Railways ;

(3) Military Works ;

(4) Any Imperial Department ;

should be forwarded for disposal to the Department of Public Works, General Branch, except in the following cases, namely, lands required for—

(a) Volunteer ranges.

(b) Encamping-grounds.

(c) Purposes of District Boards and Municipal Committees.

In these cases the application should be submitted to Government in the Civil Department, and will be dealt with in that Department in accordance with the standing orders of Government.

XVII.—When the declaration under Section 6 has been published in the Gazette all further proceedings rest with the Deputy Commissioner, unless Government has specially empowered any other officer to perform the functions of a Collector under Section 3 of the Act.

XVIII.—The Deputy Commissioner or other officer so empowered, when he has received a direction under Section 7 of the Act to take orders for the acquisition of the land, will proceed in accordance with the provisions of Section 8 *et seq.* of the Act.

Proceedings of the Deputy Commissioner after publication of the notification.

The form of notice to persons interested in the land required to be served under Section 9 of the Act is given in Appendix III. In order to facilitate the enquiry into value and claims under Section 11, he will cause a statement in the vernacular, in the form given in Appendix No. IV, to be prepared under the supervision of a trustworthy revenue official, showing separately for each village the Settlement number of the lands, to be taken up, in whole or in part, the area of the lands, the parties known or believed to be interested therein, and all available data for forming a judgment as to the value of the property. Care should be taken that a copy of the portion of the Settlement field map in which the land taken up is situated, with the boundaries of the land marked on it, is filed with the patwaris' papers and with the proceedings of the case. The prescribed statement contains also an estimate of the costs of wells, trees, buildings, crops, &c., which may be on each estate. The estimated value of each plot, and of other property standing upon it, together with the revenue rate per acre and the revenue assessed or assessable upon the land, will be entered in this statement. Advantage should be taken of the knowledge of respectable men of the neighbourhood to ascertain the market value of the property. This statement should be completed and tested before the date fixed in the notice issued under Section 9 for attendance of parties and inquiry into claims.

XIX.—The award of the Collector, under Section 14, is binding on Government. The award must be written in English by the Collector himself, and should contain some details of the mode in which the result is arrived at. As no suit can be brought by Government to set aside such award (Section 57), it is most important that it should be made with care and deliberation. Before making his award the Deputy Commissioner must always give 15 days' previous notice to the Departmental Officer acting on behalf of Government for the acquisition of the land in order that he may have an opportunity of making any representation regarding its value which he may think necessary. The notice shall be accompanied by a copy (English or Vernacular as the case may be) of any preliminary report on the value of the land which may have been prepared by the Tahsildar or other subordinate of the Deputy Commissioner, or, in cases in which the file is too bulky for copies to be conveniently prepared, the notice shall inform the Departmental Officer that this is the case, and that the file is open to inspection by himself or by any other officer to be named by him on any day not later than two days before the award. Due consideration should be given by the Deputy Commissioner to any representations the Departmental Officer may make in person or by letter in reply to this notice, whether made in person, by agent, or by written statement. It will rest with the department concerned to decide whether there is ground for making any such representation.

The Deputy Commissioner is only required to see that due opportunity for doing so is afforded, and that the representation, if made, is duly considered before making an award under Section 14 of the Act.

[The Financial Commissioner considers that too much importance cannot be attached to the rule that departmental officers shall not themselves assume possession of land which is required for public purposes. By Sections 16 and 17 of the Act this function is expressly reserved to the Collector, that is to say, to the Deputy Commissioner.]

[The Deputy Commissioner's function in making awards is essentially a judicial one. There are two parties before him,—the person who is to be evicted and the Government which demands the eviction. It is the Deputy Commissioner's duty to refrain from entering into any correspondence which can be understood as prejudging the case before it is heard. Section 20* of the Circular merely directs that one of the two parties to the award, viz., the Departmental Officer, shall have due notice before the award is made "in order that he may have an opportunity of making any representation regarding its value which he thinks necessary." The rule does not say that the Deputy Commissioner is to tell the Departmental Officer what the award is likely to be; much less that he should enter into correspondence with that officer on the subject. In the Financial Commissioner's opinion, any Deputy Commissioner who did this would be acting in derogation of his position as a judicial officer, and would be adopting a course likely to lead to serious delays, and which could be justly objected to by the persons to whom the award is due.]

XX.—In cases where the Government revenue has been alienated in favour of any one, the value of the loss of revenue to the Government assignee must be estimated. If the assignment be for more than one life, or in perpetuity, the compensation is to be calculated at 15 years' purchase of the Government revenue assessable upon the land. If the assignment be for less than 15 years, the value is to be calculated (excluding months and days) according to the scale laid down by Government for buying out pensions, by which a fixed graduated value* is given with reference to ages under certain periods. The amount thus calculated is to be paid to the incumbrancer, and his right is thus extinguished. But it often happens that a nazarana is paid annually by jagirdars, and is in fact a deduction from the revenue of the jagir; in such a case a proportionable amount of the nazarana should be remitted and the amount of compensation must be calculated after deducting the nazarana proportionable to the area appropriated. If the assignment be for term of settlement, compensation must be calculated with reference to the number of years the settlement has yet to run, provided that in no case can more than fifteen years be allowed, or the limit allowed for perpetual grants.

* Value of life annuity of one rupee per annum.			
Years.	Rs.	Years.	Rs.
Under 10	13	Under 45 to 40	9½
10 to 19	12½		50 54 9
20	24 12		55 59 8
25	29 11½		60 64 7
30	34 11		65 69 6
35	39 10½		70 or
40	44 10		above 5.

Should the assignee of the Government revenue object to these terms, the Deputy Commissioner will make a reference to the Court under Section 15.

XXI.—The Deputy Commissioner may avail himself of the assistance of his subordinates in all preliminary proceedings subject to his supervision and confirmation, but the award must in all cases be made by himself.

XXII.—In cases referred by the Deputy Commissioner to a Civil Court under Section 15 of the Act, the Departmental Officer should be informed of the date of hearing, and should be prepared with evidence as to the value of the property taken up, and should tender such evidence to the Civil Court through the Deputy Commissioner or other officer representing Government in the case.

XXIII.—In cases where the order of the Civil Court is appealed to a higher Court, the Departmental Officer, who recommends that an appeal should be made on behalf of Government, or the officers of the department against whom the opposite party has filed an appeal, should submit, in addition to the information already required by paragraph 82 of Punjab Government Notification No. 962½ of 23th November 1885, an abstract of all the evidence, oral or documentary, recorded or filed for either side in the Lower Court.

XXIV.—It will be seen from Section 32 of the Act that the costs of proceedings in Court are in the first instance to be paid by the Collector, and will be recovered from the opposite party in the event of the award of the Court not exceeding the sum tendered by the Collector. If the Collector has to pay the costs under the 2nd clause of Section 33 of the Act, the amount should be charged to the Department concerned as part of the cost of acquisition. Interest paid under Section 42 should be treated in like manner.

C.—PAYMENT OF COMPENSATION.

XXV.—When land is taken up by private negotiation, payment of compensation shall be made by the officer who completes the transaction (Rule XIII).

(1) Land taken up by private negotiation. In all such cases a bill for compensation must be submitted to the Examiner, Public Works Accounts, for pre-audit. The bill must state distinctly the purpose for which the land is required, and also that it is taken by consent, and should also give the number and date of any declaration which may have been issued touching the particular land, though it may have afterwards become inoperative by reason of the owner coming to terms of his own accord; the Public Works Division for which the land is taken up should also be distinctly mentioned, and also the authority for the

* See XIX of this Circular.

work for which the land is taken, which information can always be obtained from the Executive Engineer. The money will be paid on presentation of the audited bill duly receipted by the payee, which will serve as a voucher to support the charge in the list of payments.

XXVI.—In cases of land purchased by private bargain, the sanction of the estimate is to be held to limit the actual disbursement for the object, subject to the customary margin of an excess of 10 per cent. In all cases the officers making the payment will be required to explain satisfactorily the cause of any such excess. In the event of the purchase not being found possible for the estimated sum, together with 10 per cent. thereon in addition, a revised estimate must be submitted, and a new sanction obtained before the disbursement can take place. The above rule is to be held equally applicable whether the works are constructed from Imperial, Provincial or District Funds.

XXVII.—Rules for the payment of compensation for land acquired under Act X of 1870 for public purposes have been consolidated by the Government of India in the two Resolutions which are reprinted below, of which the provisions must be carefully observed.

RESOLUTIONS.

Government of India Resolution No. 1580 of 29th June 1886, Department of Finance and Commerce.

It has been brought to the notice of the Governor-General in Council that the orders regarding the payment of compensation for land taken up for public purposes under the Land Acquisition Act, 1870, and the audit of such payments, are not everywhere carefully observed and that it is desirable to consolidate and in some respects to modify these orders.

2. His Excellency accordingly, in supersession of all previous orders, directs that the following procedure shall be observed

3. After all preliminaries in respect to estimates, &c., that may be required under departmental rules in force for the time being have been duly carried out, the land will be taken up under the Act, either by the Collector or by some special officer who is placed at the disposal of the Public Works Department, and invested with the powers of a Collector under the Act; the procedure differs in the two cases.

4. Officers who are especially employed for this work, being invested with the powers of a Collector under the Act, and placed at the disposal of the Public Works Department are regarded as Public Works disbursers, and are supplied with funds in the same manner as an Executive Engineer, as described in Chapter 23 of the Civil Account Code. The following procedure shall be observed by such officers.

5. When the amount of compensation is accepted by the persons interested, and an award is made under Section 14 of the Act, the officer shall have a statement prepared in the appended Form (marked A) showing the amounts payable to each person under the award, and shall on the day the award is made forward a copy of the statement, signed by himself, to the Examiner of Public Works Accounts, with whom he is in account. Before signing the copy, the officer should carefully satisfy himself that it correctly shows the amounts due under the award, and should himself, both in the original and copy, enter the total of column 6 of the statement in words.

6. In paying the amounts due under the award, the officer shall take the receipt of each person to whom money is paid on a separate voucher in the accompanying form (marked B), containing a reference to the item showing the amount due to that person in the statement prescribed in the preceding paragraph. The officer shall forward the receipts of the payees to the Examiner of Public Works Accounts, with whom he is in account, when forwarding to him the accounts of the month in which the payments are made.

7. In the event of the payees not presenting themselves for payment within a year from the date of the award, the amounts due may be paid in to the Treasury on Revenue deposit, and vouched for in the accompanying form (marked C). Every endeavour should, however, be made to secure the presence of the payees to receive payment so as to avoid as far as possible payment into the Treasury on deposit. When the payees ultimately claim payment of sums placed on deposit, the amounts will be paid to them in the same manner as Ordinary Revenue deposits, under the authority of the Collector.

8. When the compensation offered is not accepted by the persons interested, and the amounts payable are consequently settled by the award made by the Court under the provisions of Part III of the Act, the special officer shall, as soon as he ascertains what the award of the Court is, prepare a statement in Form A showing the amounts due under the award, and forward a copy to the Examiner in the same manner as prescribed in paragraph 5. In paying the amounts due under such award, the officer shall take from each person to whom a payment is made a receipt in Form B, or, in the event of the payees not presenting themselves for payment within a year from the date of the award from the Treasury Officer, in Form C, containing a reference to the entry showing the amount due in the statement just referred to, and shall forward those receipts to the Examiner, Public Works Accounts, in forwarding to him the accounts of the month in which the payments are made.

9. The special officer should, as far as possible, arrange to make the payment due in or near the village to which the payees belong. This will make it more easy to secure the attendance of the payees, and so reduce the number of sums which it will be necessary to place on deposit under paragraph 7.

10. In any case in which a reference is made to the Civil Court, and the award of the Court is not made till after the special officer has been relieved of his special duties, the payments due under the award shall be made by the Collector, who will observe the same procedure as if the reference to the Civil Court had been made by himself, as prescribed in paragraphs 11 and 12 below.

11. When the land is taken up by the Collector or other Civil Officer not specially employed for the work, such Collector or Civil officer is not a Public Works disbursing officer, but draws money for payment due under the award made by him or by the Civil Court, from the Civil Treasury. Such Collector or Civil Officer shall, as soon as he makes the award, or as soon as he ascertains that an award has been made by the Civil Court prepare a statement in Form A showing the amounts due, and forward a copy thereof to the Examiner of Public Works Accounts concerned in the manner prescribed in paragraphs 5 and 8.

12. In making the payments due under the award, the Collector shall take from each person to whom payment is made a receipt in Form B containing a reference to the particular entry in the award showing the amount due to the payee. These receipts will be the Treasury Officer's vouchers for the payments, and shall be forwarded by him with the accounts of the month to the Accountant-General of the Province, who will in ordinary course forward them to the Examiner of Public Works Accounts. In the event of the payees not presenting themselves to receive payment within a year from the date of the award, the amounts due may be placed on Revenue deposit and receipts taken in Form C in the same manner as is provided in Rule 7.

13. The Treasury Officer has no concern with the award or with the award statement; he makes the payments on the authority of the Collector or other officer assessing compensation. The Collector may either draw the amount due to each payee separately, in which case he should countersign the receipt in Form B, and make it payable at the Treasury to the payee, altering the words "Paid in my presence ^{in cash} by cheque" to "Pay"; or he may draw the total amount due under the award on his own receipt as an advance and after making the payments forward the receipts of the payee to the Treasury Officer in a statement of the advance. In the former case an advice list of the forms passed for payment should be sent to the Treasury Officer, who in turn should send weekly an advice of orders paid.

14. Whether the payment is made by a special officer or by the Collector (or other Civil officer), the audit of the Examiner of Public Works Accounts shall consist in seeing that every payment is supported by a receipt in Form B or C, and that the amount paid on such receipt is the amount payable to the payee under the award, as shown in the statement of which he will have received copies under the preceding orders. The Examiner will also note in the last column of Form A the date on which possession is taken, as reported to him by the Executive Engineer or other officer.

15. The Examiner will, as he receives the vouchers, fill in the entries in column 8 of the award statement (Form A); and as he receives the reports of possession, he will fill in the entries in column 9: when all the vouchers showing either payment to the payee or payment to the treasury on deposit and the report of possession have been received, he will forward a copy of the completed statement in Form A to the Chief Revenue authority. This will complete the audit of the Examiner; any other or further returns or reports from the officers who assess or pay compensation, and any reports regarding the payment of sums placed on deposit under Rules 7 and 12 above, will be disposed of by the Chief Revenue authority without reference to the Examiner.

16. When the land is acquired for, and the cost is debitable to, the Military Works Department, the procedure above laid down will be observed, the Examiner of Military Works Accounts being substituted for the Examiner of Public Works Accounts.

17. When the land is acquired for, and the cost is debitable to, any other Department than the Public Works Department or Military Works Department, the procedure will also be the same, the Account Officer who will audit the payment being substituted for the Examiner of Public Works Accounts.

18. In any case in which land is acquired for a Municipality or other body financially independent of Government, the Local Government may direct that the payments, instead of being made and audited in the same manner as the ordinary payments of such body, shall be made and audited as if the land were being acquired for Government. If the Local Government issues such an order, the Collector or other officer who makes payments on account of the land acquired shall draw funds from the Treasury, and make payments in the manner laid down in these rules, using the forms prescribed, and shall render his accounts

to the Civil Accountant-General. The Municipality or other body will pay the estimated cost of the compensation to the credit of Government in advance on such dates and in such instalments as the Local Government may direct, further payment to Government being required as soon as the Accountant-General reports that the payments made exceed the amount received in advance. The Accountant-General will deal with the accounts and payments as prescribed in these rules, debiting the payments against the advances received from the Municipality or other body.

Note—In connexion with the above Resolution, the annexed correspondence should be read, viz.,—

From the Examiner of Accounts, P. W. D. (extract) No. 7143 of 19th July 1887.

PARA. 1. In reply to your No. 4103, dated 13th July 1887, I have the honor to point out that the object of the reference made in my No. 6481 I., dated 27th June 1887, was to obtain an authoritative ruling on the following points:—

- (I).—whether under the orders contained in Government of India, Financial Department Resolution No. 1580., dated 29th June 1886, it is necessary that the officer who takes up land for public purposes, whether he is employed as a special Land Acquisition Officer or not, should himself make all the payments to land-owners, as would seem to be implied by the wording of paragraphs 6, 12 and 14 of the Resolution.
- (II).—Whether in making payments on account of land the form B can be used in vernacular altogether or whether it is intended by the note on the form that the English form is in all cases to be used, but that the payee's acknowledgment can be taken on it in vernacular when he is unable to write in English.

Extract from a letter No. 596—4158, dated the 5th August 1887, from the Junior Secretary to Financial Commissioner, Punjab, to the Junior Secretary to Government, Punjab.

I AM directed to forward the correspondence marginally noted, and to request that an authoritative ruling may be obtained on the points raised by the Examiner of Public Works Accounts Punjab.

Examiner of Public Works Accounts' No 6481, dated 27th June 1887, in original.
Copy of this office No. 4103, dated 13th July 1887.
Examiner of Public Works Accounts' No 7413, dated 19th July 1887.

Extract from a letter No. 623, dated the 12th September 1887, from the Under Secretary to Government, Punjab, Revenue Department, to the Junior Secretary to Financial Commissioner, Punjab.

PARA 1. I am desired to acknowledge the receipt of your letter No. 596, dated 5th of August 1887.

2. In reply I am to say that the Lieutenant-Governor is of opinion that, while the Land Acquisition Officer or Collector, as the case may be, is responsible for the preparation of the prescribed forms, the collection of vouchers and their transmission to the proper account officer, and should, when practicable, endeavour to make the payments of compensation him, self, and on the spot, there is no objection to payments being made through Tahsildars to the persons receiving where this will save these persons unnecessary journeys to head-quarters or the officer's camp. In the latter case the officer, when he is a special officer, and not the Collector, must arrange to place the Tahsildar in funds to make the payments.

3. As regards the second point upon which a reference has been made by the Examiner of Accounts, I am to say that, in His Honor's opinion, where the payee does not know English and the officer making the payment does, the body of the receipt should be in English, but it may be signed in the vernacular of the payee, or in Urdu, and attested by his mark. Where neither the payee nor the officer knows English, the whole receipt may be in the vernacular,

FORM A.

No. AND DATE OF STATEMENT _____

DATE OF AWARD _____

Name of work for which land has been acquired _____

No. and date of declaration in *Gazette*, viz., No. _____

dated _____ page _____.

Statement showing compensation awarded by _____
under Section _____, Act X of 1870, to all the persons interested in the plot of
land situated in the village of _____ in estate _____, No. _____
_____ on the Revenue Roll of the District of _____, Parganah _____
_____.

1	2	3	4	5	6	7	8*	9*
Serial No.	Names of persons to whom payment is due under the award.	Area of land.	Abatement of Land Revenue.	A valuation of any buildings that may be taken upon the land.	Total amount due to each person, including the amount shown in column 5, the amount awarded for the land, interest, costs and any other amounts due to the payee in connection with the acquisition of the land.	Remarks.	No. and Date of Vouchers.	Date on which possession of the land was handed over to the Departmental authorities for whom it is acquired
		A.R.P.	Rs. A.P.	Rs. A.P.	Rs. A. P		No. Date.	Date. Reference to the report stating the date.

* To be filled up in the Examiner's Office.

Note.—Each award statement should be confined to the lands to be taken under one declaration—i.e., the awards given for lands acquired under more than one declaration should not be incorporated in one statement but as many separate statements submitted as there are declarations.

B.

No. of Voucher _____
Name of work for which the land has been acquired _____
Serial No. _____
in Award Statement No. _____
dated _____
Name of payee _____
I _____, of _____
parganah _____ Zila _____

do hereby acknowledge to have received Rs. _____
_____ on account of cost of land
taken up by Government, as detailed on reverse.

Signature of the payee _____

Locality _____

NOTE.—The receipt should be English; but when the payee is unable to write in English, he may give a receipt in the vernacular.

B.

No. of Voucher _____
Name of work for which the land has been acquired _____
Serial No. _____
in Award Statement No. _____
dated _____
Name of payee _____
I _____, of _____
parganah _____ Zila _____

do hereby acknowledge to have received Rs. _____
_____ on account of cost of land
taken up by Government as detailed on reverse.

Signature of the payee _____

Locality _____

NOTE.—The receipt should be English; but when the payee is unable to write in English he may give a receipt in the vernacular.

LAND ACQUISITION.

Paid in my presence ^{in cash} _{by cheque} to _____, Paid in my presence ^{in cash} _{by cheque} to _____
 resident of village _____, station _____, resident of village _____, station _____,
 parganah _____, district _____, the sum parganah _____, district _____, the sum
 * In words * * * * * * In words * * * * *
 of Rupees _____, annas _____, pies _____ of Rupees _____, annas _____, pies _____
 † In figures † In figures
 only Rs. † _____ only Rs. † _____

[The above receipt should bear the following countersignature printed across its face in red ink.]

DETAILS OF LAND, &C., AND THEIR VALUES.				DETAILS OF LAND, &C., AND THEIR VALUES.			
Mauza	_____	Parganah	_____	Mauza	_____	Parganah	_____
Zila	_____			Zila	_____		
Land	_____	Bigha	_____	Land	_____	Bigha	_____
Cotta	_____	Chuttack.		Cotta	_____	Chuttack.	
Value	_____	Rupees	_____	Value	_____	Rupees	_____
Annas	_____	Pies.	_____	Annas	_____	Pies.	_____

C.

C.

Name of work for which land has been acquired _____

To the Officer in charge of Treasury.

Please receive for transfer to credit of Revenue deposits the sum of Rs. _____ on account of compensation for land taken up for the above purpose payable as detailed below :—

Serial No. in Award State ment No.	Names of parties.	Area of land Acres.	Amount payable to each.			Remarks.
			Rg.	A.	P.	
	Total ...					

Land Acquisition Officer.

Dated 188 .
Received the above amount and credited to
Revenue deposits.

Treasury Officer.

NOTE.—This form should be used when the amounts of compensation due are sent to Treasury in the absence of proprietors who have failed to present themselves for payment.

To the Officer in charge of Treasury.

Please receive for transfer to credit of Revenue deposits the sum of Rs. ————— on account of compensation for land taken up for the above purpose payable as detailed below :—

Serial No in Award State- ment No. . .	Names of parties.	Area of land	Amount payable to each.		Remarks.
			Rs.	A. P.	
		Acres.			
	Total ...				

Land Acquisition Officer.

Dated 188 .
Received the above amount and credited to
Revenue deposits.

Treasury Officer.

NOTE.—This form should be used when the amounts of compensation due are sent to Treasury in the absence of proprietors who have failed to present themselves for payment.

Government of India Resolution No. 2506 of 14th August 1886, Department of Finance and Commerce.

READ again—

Resolution in the Department of Finance, No. 1580, dated the 29th June 1886, consolidating and modifying in some respects the orders regarding the payment of compensation for land taken up for public purposes under the Land Acquisition Act, 1870.

READ also—

Extract paragraphs 1 and 3 of the letter from the Government of Bengal, No. 211-T. F., dated the 28th April 1886, as given below :—

1. I am directed to submit, for the information of the Government of India, copies of the papers noted in the margin, regarding the discovery of certain frauds, amounting to Rs. 70,543-4-6, which were committed between July 1881 and November 1884, in the office of the Land Acquisition Deputy Collector of Alipore in the district of the 24-Parganahs.

3. As stated in paragraph 2 of the Resolution, the Accountant-General is in communication with the Comptroller-General with respect to the changes of system which the enquiries into the present case of frauds have shown to be needful. The Lieutenant-Governor here desires to express his opinion that all payments of awards in land acquisition cases should be made by means of cheques, and that the use of cheques should be safe-guarded by a rigid observance of the following rules :—

- (1) Every cheque-book should contain a certain number of cheques, with consecutive printed numbers, and each book should contain its own serial number.
- (2) The serial number of the cheque-book, and the number of cheques it contains, should be reported to the Treasury Officer before the book is brought into use.
- (3) The cheque-book should be kept under lock and key by the Land Acquisition Officer himself.
- (4) The cheques should be filled up by the Land Acquisition Officer with his own hand in words as well as figures, and cheques should be encased under Rs.
- (5) A periodical examination of pass-books from the Treasury with the counterfoils of the cheque-book should be made by the Land Acquisition Officer himself.

RESOLUTION.—The Government of Bengal proposes that all payments of awards in land acquisition cases should be made by means of cheques, but there is reason to fear that the adoption of an invariable rule of this nature might in some instances be productive of inconvenience.

When the property taken up by Government is near a Treasury, the system of payment by cheques may be as convenient as payments in cash by the Land Acquisition Officer. But where the property is situated at a distance from a Treasury, and when the Land Acquisition Officer pays the compensation at or near the village in which the owners reside, —a course which is enjoined in paragraph 9 of the Resolution of 20th June 1886, —the making payment by means of cheques would probably be inconvenient to the payees, and the advantage of making final payments on the spot would be lost. The Governor-General in Council is therefore not prepared to direct that all payments shall be made by cheque. There is, however, no objection to a Local Government directing any particular Land Acquisition Officer to make all his payments by cheque, if it appears that this practice will not cause inconvenience of the kind above referred to.

The rules proposed by the Government of Bengal in order to safeguard the use of cheques are approved. Those rules should be observed by all officers paying compensation for land who draw money from the Treasury by cheque, whether in lump sums to be distributed to the payees in cash by the officer, or in detail, each cheque being payable to one of the persons to whom compensation is due.

D.—REDUCTION OF LAND REVENUE.

XXVIII.—The Act makes no allusion to the award of a part of the compensation in the shape of an abatement of land revenue. This is a matter that must be regulated by the ordinary rules of the Revenue Department, irrespective of the Act. The Deputy Commissioner is not now required to base his award on the land revenue assessed on a piece of land. He is merely to ascertain the market value of the land, and the other three points stated in Section 24 of the Act. The market value of revenue-paying land is the amount which the owner could get for it, subject to payment of revenue. This will be less than if there were no revenue payable on it. The difference will practically represent the amount which the Government will have to pay in the shape of a loss of land revenue. That is, whenever the land comes into the possession of Government, the revenue demand on it will cease, and reduction of the revenue roll must be applied for.

XXIX.—The reduction of revenue to be granted must be calculated according to the amount actually paid to Government as land revenue on the plots taken up, or, if no specific amount is attached to them, the settlement rate of the village for the particular class of land should be applied.

XXX.—If any reduction of the revenue roll is required, application should be made to the Financial Commissioner in the form of Appendix No. V, whether the land is taken up by private bargain or by the compulsory process. An extract from the District Register (see

Rule XXXIX) in English and a copy of the notification authorizing the acquisition of the land should invariably accompany the reduction statement. Where no reduction of revenue roll is required, the fact should be noted in the District Register and no reference to the Financial Commissioner is necessary. If revenue has been erroneously realized, a refund statement accompanied by an extract in English from the District Register will similarly be forwarded in the usual form to the Financial Commissioner with an application for sanction to such refund.

XXXI.—When land paying revenue to Government is taken up for a public purpose, the revenue demand will be reduced if the work is chargeable to Imperial or Provincial revenues; but when the work is chargeable to District or Municipal Funds, the revenue demand will be payable by the District or Municipal Committee till next revision of settlement only but not thereafter.

(Government of India, Financial Department, Nos. 2059, dated 26th July 1887, and 3510, dated 8th October 1887).

XXXII.—In the case of land occupied for canals, in order to enable the Canal Department to charge to the capital account of irrigation works the value of land revenue remitted on lands taken up, Deputy Commissioners will make a note on the compensation statement, showing the amount of reduction of land revenue for which sanction has been applied for to the Financial Commissioner.

E.—TEMPORARY OCCUPATION.

XXXIII.—The temporary occupation of land requires no declaration in the Gazette, but it requires sanction of Government if action is to be taken under Part VI of the Act. Application should be made to Government through the Deputy Commissioner of the District and the Commissioner of the Division in which the land is situate. In cases when land is taken up temporarily by private negotiation, the provisions of Part VI will not necessarily apply.

XXXIV.—For land temporarily occupied, whether under the Act or by private bargain, the Deputy Commissioner will ordinarily fix a yearly rent. All payments of this rent should be made through the Deputy Commissioner, and in no case by the Departmental Officer direct.

XXXV.—The quondam occupants should receive an extract from the Field Register, describing precisely their tenure and the extent of the lands they will be entitled eventually to recover.

XXXVI.—The temporary occupation will not interfere with the liability of the quondam occupant or proprietor of the land to land revenue and no reduction of revenue will be sanctioned.

F.—ABANDONMENT OF LANDS TAKEN UP PERMANENTLY OR TEMPORARILY.

XXXVII.—Section 44 and 45 of Act X of 1870 provide for the procedure to be followed when lands temporarily occupied are abandoned.

XXXVIII.—When land permanently taken up is no longer required, it will be made over to the Deputy Commissioner by the Departmental Officer authorized to do so, and will be leased or sold by the Deputy Commissioner according to the instructions in force regarding the disposal of Government lands. The sums realized by the lease or sale of such lands will be credited by District Officers to the Department on account of which it was taken up; and in the event of its being sold, land revenue will be assessed in the manner provided by the rules issued under the Punjab Land Revenue Act.

[The policy of Government, which must be observed by District Officers, in dealing with these relinquished lands may be summed up as follows, viz. :—

- (i) when land previously occupied permanently by Government is sold, land revenue shall be assessed on it;
- (ii) such lands shall, in the absence of special orders, be first offered to the owners of the estate to whom it originally belonged.

Doubts are felt as to whether these orders are not overlooked, as applications for the Financial Commissioner's sanction to restorations of land and assessments made under these circumstances are seldom received.

The procedure to be observed is that the Deputy Commissioner shall fix the terms on which the lands should be restored to the owners, both the price to be demanded and the future revenue assessment; and having ascertained whether the former owners will accept these terms, the Deputy Commissioner should report the case in the form appended for the orders of the Financial Commissioner.]

3. On the one hand no officer may surrender land of which he has charge in his capacity as a public officer unless he has first obtained the proper departmental sanction to that surrender or unless he is acting in obedience to the judicial order of competent authority.

4. On the other hand no executive officer can be justified in taking possession of land merely because in his opinion the records of his office show that Government is entitled to it.

5. When an executive officer has grounds for believing that an encroachment has been made on land of which he has charge, or for other reason has doubts concerning the boundary of such land, he should (after such reference to his superior officer as may be required by the circumstances of each case) apply to the Deputy Commissioner of the district, who will then cause the boundary to be demarcated in accordance with the procedure provided by law.

CHAPTER II.—GUARANTEED RAILWAYS.

XLV—The rules in force regarding the occupation of land for Guaranteed Railways are contained in the following Circular of the Government of India, Public Works Department.

Government of India, Public Works Department, Circular No. 55, dated 29th June 1861.

1. Land required for railway purposes may be divided into four classes A, B, C and D. First class A, land which a Railway Company receives free of charge under the contract with the Government for permanent occupation. Second class B, land also provided free of cost, but only for temporary occupation. Third class C, land which the Railway Company has to provide at its own cost. Fourth class D, land which does not come directly into the possession of the Railway Company at all.

2. Class A will comprise the land required for the permanent works of a railway including the road with its bridges, &c., and all stations, workshops, permanent store-houses, and the like necessary for the line when opened, and which under the contracts is to be provided by Government free of cost to the Railway Companies. The occupation of this land by a Railway Company will be so far permanent that it will only cease when their contract is terminated or surrendered, and the whole lapses to Government. It is all provided free of charge.

3. Class B will contain land essential for the execution of the permanent works of a railway, but not required after the completion of the line in part or in whole. It is also provided free of charge. Such as land for spoil banks, for extra excavation to make banks for river diversion, and for the storage of railway materials held in stock by the Railway Company pending the construction of the line, or their despatch to the works.*

*This last sort of land is allowed free under the Right Honorable the Secretary of State's letter No. 25 of 30th November 1858.

The occupation of this class of land will be temporary. On its restoration to the Government, the proper time for which will be settled in each case between the Railway Officers and the Consulting Engineer, it will be for the Revenue Officers to dispose of it to the best advantage of Government.

4. Class C will contain the land which a Railway Company has to provide at its own cost. This is land which is required for the provision or preparation of materials for purposes contingent on the actual execution of the works on the line, or for other miscellaneous subjects which the Government recognizes as falling legitimately within the scope of the Railway Company's operations, though not giving the Company a claim to the provision of land free of charge. As a Railway Company is bound to pay for the construction of all works out of the capital, receiving only from Government without charge the land on which the works stand, the provision of all materials and the means of facilitating the execution of all works are to be at the cost of the Railway Company.* It is proper to bear in mind in

*The following words were also in the original rule:—"In this class, therefore, will fall all land for brick-making, for quarrying ballast. (a) for houses for persons employed in the work, &c. So also land for houses for engine drivers and the like on the line when opened, and for other similar purposes, will come under Class C."

But Her Majesty's Secretary of State for India thought that any particularization in the rule might raise questions as to the power of Government to alter or vary the nature of the contract (a power which the Government has no intention of claiming). It has, therefore, been thought best to give these words in a note, simply for the guidance of the Officers of Government and parties interested as to the construction which Government puts on the contract in regard to certain points of frequent practical application.

(a) In the original rules the words "for roads to works in progress" have found place. They have now been struck out, as calculated to mislead. It is clear a road may be required from a site used temporarily for storage of materials itself in Class B. This would carry the road itself into the same class.

A road from a brick-field or quarry would be in the same category as the brick-field or quarry, viz., Class C; whereas a road from a detached but permanent store-yard, although leading "to works in progress," would not the less come under Class D, should such road still be necessary after the completion of those particular works. Thus generally the circumstances of the tenure of the land at the end of the road furthest from the railway will decide the class into which the road itself shall be placed.

fixing the rent that this land will in part deteriorate by the use to which it is put, and in part will not so deteriorate. In all cases, however, it will be most convenient to deal with the land in the first instance in the same manner. It will be taken possession of by Government, and handed over to the Railway Company for occupation at a fair rental. When the necessity for occupation ceases, the land will be given up again to Government by the Railway Company, the proper time for this being determined as under class B, by the Railway Officers and Consulting Engineer—*vide* Circular of Government of India, Public Works Department, No. 27, dated 23rd September 1869, *post*—para xlvii).

5. Class D will contain that land which being required in consequence of the works of a Railway still does not come directly into the occupation of the Railway Company; it will be provided free of charge. It will be exclusively land for roads, either new roads leading to Railway Stations or to permanent store-yards or workshops detached from the main work, or diversions or changes of old roads made necessary by Railway works.

6. Inconvenience is likely to arise if Railway Companies are permitted to hold land on their own account or otherwise than is above explained. By causing them to rent from the Government all land to which they are not entitled free in the manner above explained, simplicity in the tenure of their property will be secured which will be a matter of importance at a future time when the Railway may be transferred to Government. The determination of the value to be paid by the Government for any land not included in class A, which might be held by a Railway Company would certainly be, in such an event, a great embarrassment.

7. Houses, trees, tanks or other property on land which is not provided free of charge and for which special payment of compensation is necessary, will be paid for at once by the Railway Company. In the case of land provided free of charge, the materials, &c., derived from the "clearance" of the surface, which then will be at the expense of Government will be disposed of by the Revenue Officers in the best advantage.

[With reference to the last sentence of this rule it has been represented to the Financial Commissioner by the Consulting Engineer to the Government of India for Guaranteed Railways that under this rule it sometimes happens that trees standing on the land taken up for the railway are sold to other persons when the Railway Company would have been glad to keep them. It is pointed out that when this occurs the Railway Company is compelled to buy the trees, probably at an enhanced price, to prevent their being cut down and it is urged that this course is profitable neither to the original owner of the land, to the Government, nor to the Railway Company, and on these grounds it is suggested that before disposing of trees on land so taken up the Revenue Officers should first ascertain whether the railway authorities wish to purchase them.]

As undoubtedly a good case has been made out in support of this application, the Financial Commissioner requests that it may for the future be complied with, it being of course understood that in the event of the Railway Company deciding to purchase the trees, it will be required to pay for them a price not lower than that which might have been obtained by sale to a private person.]

8. All land required for a line of Railway will be applied for in continuous portions, the plans will be drawn to a scale of 150 feet to the inch; and the measurements and areas will be recorded in accordance with the fiscal divisions of village estates, or mauzahs, parganahs and zillahs in a schedule of which a form is annexed* showing in detail the several classes to which the land belongs.

* Appendix VII.

9. The several classes of land will be coloured pink, yellow, purple and green, respectively, in the plans, and the exact purpose to which each parcel of land is to be devoted will be noticed in the schedule.

10. Detached portions of land should be referred to some fixed point on one of the main sheets, with such distances and compass or other bearings as will enable the land to be identified at once. A corresponding entry should also be made on the main sheet to draw attention to the detached portion.

11. The general correctness of the plans and schedules of the Railway Engineers being attested by the Consulting Engineers to Government, the applications will be forwarded to and dealt with as may be necessary by the Revenue authorities under the orders of the Local Government. The Revenue Officers are to be held strictly responsible for the regular adjustment by Railway Companies of all charges on account of land to be determined in the manner above explained.

12. A complete set of land plans should be recorded in the Chief Engineer's office of each Railway, and a copy forwarded to the Consulting Engineer to Government, by whom a duplicate will be given to the Revenue Board, which in turn will supply Collectors of districts with transcripts of parts included in their respective zillahs. When it may be found expedient, in order to expedite the making over of the land, to employ a special Land Commissioner for this duty, the Railway Engineers should supply an additional copy of the land plan for the use of the Land Commissioner.

13. The Consulting Engineer to Government and the local Revenue authorities will respectively be held responsible for the punctual fulfilment of the foregoing orders in their several departments, and the careful record of plans in their respective offices.

14. All contemplated changes in the land in possession of a Railway Company should be promptly reported by the Railway Agent to the Consulting Engineer to Government, who will notify the same to the Local Government. It will be for the latter to see that the necessary steps are taken by the Revenue authorities for entering such charges in their records, and for carrying out all further proceedings that are requisite on such an occurrence.

15. It will be necessary for the Local Governments to see that a correct register and record of title of all Railway lands is maintained, for the whole of such lands will one day revert to the Crown. Also that all rents or payments for clearances, &c., chargeable in behalf of Government against the Railway Company, are duly realized.

16. It is essential that there should be for each Railway one set of plans, in a regular sequence, to show all the land, and that the plans of each Railway Company's estate, after they have once been prepared, should constantly be corrected and always be maintained complete.

XLVI —It has been found that the area of land made over to a Railway Company or to the State Railway Department does not always correspond with the area entered in the land plans and schedules prepared by the Railway Officers. In order to obviate this, the Financial Commissioner, after referring to the Consulting Engineer to the Government of India, has directed that the area actually made over by the Revenue authorities to the Railway Officers is to be entered on the copy of the schedule and plan on the basis of which the transfer is made. The date of transfer must also be entered. The Railway Officer should sign the entries by way of a receipt for the land. The Deputy Commissioner will send this certified schedule and plan through the Commissioner to this office, whence they will be forwarded to the Consulting Engineer (or Engineer-in-Chief in the case of a state Railway), in order that any difference of area may be entered on all copies of the schedules and plans, and that the registers of land occupied by Railways may correspond with the area actually occupied. The original certified schedule and plan will then be returned to the District officer for record.

XLVII —With reference to No. 4 of Circular quoted in para. XLV, the following instructions were subsequently issued in a Circular No. 27, dated 23rd September 1869, of the Government of India, Public Works Department, Railway Branch :—

GOVERNMENT OF INDIA, PUBLIC WORKS DEPARTMENT.

Circular No. 27 of 23rd September 1869.

1. The Government of Bombay represents that the rules laid down by the Government of India as to the mode in which the rent for C lands should be calculated will, if acted upon, lead to some loss of Government money, and recommends that rent should not in all cases be determined by the same rule.

2. The Bombay Government is of opinion that for Government land leased for housebuilding, a fixed rent irrespective of the classification of the soil and district, or locality, should be charged, and that where money has been paid for the surrender of a lease, 5 per cent. on the amount of compensation should be added to the rent.

3. For land taken up for houses from private owners, 5 per cent. per annum on the purchase money is considered by the Bombay Government to be a fair arrangement.

4. For land required for ballast pits, quarries, &c., the Government of Bombay thinks that the Company should be called upon to pay the full amount spent for the acquisition of the property, plus a nominal yearly rent during occupation, the proceeds from the sale of the land when surrendered being credited to the Company. For Government land a yearly rent should be charged to cover deterioration in addition to the cost of resumption, if any. The Chief Commissioner of Oudh also points out that any possible deterioration of the C lands by reason of the purposes to which they may be put does not appear to have been provided for in the rule last issued. This was referred to in the Circular Orders of 1861 on the subject of Railway lands, and was not provided for in the last rules through inadvertence.

5. The references may be met by an additional rule, and the following rules should accordingly be promulgated in supersession of those issued with Circular No. 21t. of 1869 :—

I.—The annual rent on lands in class C occupied by a Guaranteed Railway Company shall be fixed at 5 per cent. on the outlay incurred by Government in taking up the lands, plus any revenue or rent payable to Government in respect of the said lands.

II.—But in the case of land already belonging to and in the occupation of the Government, the rent shall be fixed at 5 per cent. on the value of the land as estimated by the Collector.

III.—In the event of the land being required for purposes through which its letting value will be diminished, the Railway Company on relinquishing it shall pay in addition to any rent paid during the occupation of the land under the previous rules, the estimated difference between the actual value of the land when relinquished and the value that the land would have had if the rent remained at the amount that was paid during the occupancy of the Company.

IV.—When land presented in free gift by a private individual for the purposes of a Railway is made over to a Guaranteed Railway Company in class C, no rent shall be charged by Government beyond the jama or revenue previously paid to Government for the land.

6. With reference to Rule (III) it is observed that the real value of the land to the Government, before it was handed over to the Company, would be properly estimated on the basis of the rent charged for it. But when land has been actually paid for by the Company already, as in Bombay, no re-opening of the old transactions should take place, and the adjustment can be made when any land is given up.

7. Compensation paid for surrender of a lease, or any other charge, should be considered in fixing the rent. If the land is not in the occupation of the Government, and cannot be transferred to the Company without charge of any sort, it comes under Rule (I).

8. It is optional to the Government of Bombay to fix the rent under Rule (II) at Rs. 5 per acre for agricultural land occupied by houses of the Company's staff, or at any other amount it may deem desirable.

XLVIII.—A Railway Company is liable to pay compensation to a Native State for land occupied by them belonging to class C, which is in British territory, provided at the cost of the Company.

XLIX.—The agricultural profits of land belonging to a Native State which has been taken up under class A, but is not required at once for Railway purposes, must not be enjoyed by the Company, but should be surrendered to the Native State.

L.—With regard to the record of Railway lands, which is to be kept up under the above orders (see Rule 15 with Government of India, Public Works Department, Circular No. 55, dated 29th June 1861), the following memorandum of the Consulting Engineer, North-Western Provinces, has been adopted as applicable to the Punjab and the explanation and forms thereto appended are still in force :—

Record of Railway Lands.

For the due fulfilment of the orders of the Government of India, it is imperatively necessary to maintain at all times a correct register and record of all lands which have been taken up for every separate Railway Company, or by any Company under each of several contracts with Government, in the offices of the Sadr Board of Revenue, of the Consulting Engineer to Government, and of the Collectors of "Railway" districts.

To this end the annexed form of register has been prepared in communication with the Sadr Board of Revenue, and approved by Government.

Appendix VIII.

3. For the Board's and Consulting Engineer's Office there will be one record book for each line of Railway, each book containing the whole record of the land taken up for the Railway in the several districts which it traverses.

4. A volume of forms will be forwarded to each Collector for the record of land taken up in his district for the Railway therein named, in which every sanctioned grant, transfer, release, and final disposal of land occupied on account of that Railway in each district will be entered in chronological order.

5. Every sanctioned grant, transfer, or release will be communicated to the Collector through the Board in the form of a land plan, depicting the land concerned, and a schedule in the form attached to Circular No. 55, Government of India, Public Works Department, dated 29th June 1861, each countersigned by the Consulting Engineer, or Deputy Consulting Engineer, to Government, North-Western Provinces.

6. Under the rules for the guidance of Collectors and of Engineers in giving and taking over land, no land is to be made over to any Railway Company under any other authority than that of sanctioned plans and schedules.

7. The nature of the requisite entries in the several columns of the record is carefully explained in the memorandum in Appendix I.

8. In the register mentioned in paragraph 2 are examples of various transactions which are severally explained in a foot-note below. *

9. On the 30th June of every year the record will be balanced as shown, and the results of the balance carried over as the first entry of the following year.

A copy of record of each year will be submitted to the Board annually on the 30th June for check in the Board's Office and that of the Consulting Engineer to Government. It will be observed that the returns of 30th June 1860 will include all the transactions of the year then concluded and a balanced and corrected abstract. The return of 30th June 1861 will detail the transactions of the year then terminated, together with the abstract corrected to date; but it will not repeat in detail the transactions of 1860, and so on.

10. Thus the yearly returns will be very brief; but it will be necessary that the record should be maintained with the greatest punctuality and care. The entries of columns 1, 2, 3, 4, 7, 10 and 13 will be made on receipt of notification of each grant of land, and the particulars to be noted in other columns of the two first sections will be entered so soon as sanction has been obtained to the abatements of jama and amounts of compensation.

Those in columns 20, 21 and 28 of the third section, at the dates on which the land is released by the Railway Company, and, in the other columns as the transactions are completed.

11. On the 30th June of each year Collectors will present to Railway Companies bills for the amount of rent shown in column 16 for the year then concluded.

12. The compensation payable by the Railway Company under column 15 will be recovered by Collectors from time to time at the period of making over the land to which it relates, and that under column 21, as soon as the new settlement or sale of the land to which it relates has been effected, and the permanent decrease in its value thereby determined.

13. Should any amounts due by the Railway Company for compensation not have been realized at the time of closing the register for the year, mention of them will be made in the column of remarks.

* 1. Column No. 1, the commonest of all, is a grant of land under Class A, referred to in paragraph 2 of the Government order. Under this column land for the whole length of a line in any one (pargana) sub-division of a district may be included in one entry, and represented in one continuous plan, but separate schedules will always be furnished for each estate or village, for record with the village papers.

See paragraphs 3, 4 and 5 of rules.

Nos. 2, 3, 4 and 5 are simple grants of land under Classes B, D and C, referred to in paragraphs 6, 7 and 8 of the Government order.

No. 96 is a record of land temporarily occupied by the Railway Company in Class B, and returned when no longer required as provided in Government order, paragraph 6. The entry, being negative, is made in red ink. In balancing the record the item disappears altogether, the original grant being cancelled.

No. 97 supposes the transfer of the above plot of land to Class A, the same entries which have been made negatively in B are therefore now made positively in A.

No. 106 represents a case in which land temporarily occupied by the Railway Company in Class C is released on the Company having no further need of it, while No. 124 shows the release of a portion of land originally taken up for permanent occupation in Class C, but which has been found to be in excess of requirements. Both entries are of course negative in C. The land in both of these cases being returned into the hands of Government, the final disposal of it by the Collector is shown in the 3rd section.

In No. 106 the land is supposed to be restored to the mauzah of which it originally formed part, and a consequent increase to the assessment of the mauzah made, but not to the amount of the abatement previously made in consequence of deterioration. The negative entry in column 13 is made positively in 18, and the same in column 26, as being for the time unproductive; then in the new settlement in regard to it being effected, the entries in columns 19 and 20 are made, and negative one in column 25 and the amount payable by the Railway Company in compensation for the permanent loss of revenue from the deterioration of this land being recovered from the Railway Company is entered in column 26. In the case 124 it is supposed that the land being received back by the Collector on the 1st May, on the 15th idem a portion is let on lease, as shown in columns 23 and 24, and on the 27th idem the remaining portion disposed of by sale; entries accordingly are made in columns 21 and 22, and in each case a negative entry is made in column 26. In this case there has been loss incurred in finally disposing of the land which the Railway Company has to make good, and the amount being determined and recovered from the Company is entered in column 26.

Sufficient care has often not been taken to realize rent due by Railway Companies for land temporarily occupied.

(Clause C.) paragraph 11 of the above memorandum requires that on the 30th of June each year, Deputy Commissioners should present to Railway Companies bills for the amount of rent shown in column 16 of the register of Railway lands. It should be remembered that—

(1). Such land is taken up at the expense of the Railway Company, and Government must not be put to any expense on account of it by way of loss of land revenue or otherwise.

(2). Where the land is the property of Government, the entire rent will be credited as miscellaneous land revenue.

(3). Where the land is *nazul*, the Local Committee or Municipal Committee, as the case may be, will be entitled to the rent, as distinguished from the land revenue, where any has been assessed, the latter being credited to miscellaneous land revenue.

(4). Where the land is private property, and has been rented by the Collector from the owners on behalf of the Railway Company, the land revenue, if any, paid by the proprietor will be merged in the rent charged to the Railway Company. On realization of the amount, the Collector will pay the zemindars their portion as proprietors, and credit the land revenue to Government under the head of miscellaneous land revenue.

(5). The manner in which the amount of rent is to be calculated is explained in Circular No. 27, Government of India, Public Works Department, dated 23rd September 1869, previously quoted. The above remarks apply only to the mode of realizing and crediting the rent.

CHAPTER III.—STATE RAILWAYS.

LI.—In all cases of land required for State Railways in the Punjab, unless otherwise directed, an attempt is to be made in the first instance to obtain the property by private negotiation. This rule is not to interfere with the general rule No. IX, Chapter I. (Joint Secretary to Government, Punjab, Railway Branch, to Secretary to Financial Commissioner No. 4257 S., dated 19th November 1870).

LII.—Before a Deputy Commissioner is called upon to obtain land for State Railways by private negotiation, a preliminary notice will usually have been published in the Gazette by Government under Section 4 of the Act. If it is eventually determined to apply the Act, a further notice under Section 6 will be published.

LIII.—The following Circular of the Government of India, Public Works Department, Railway Branch, contains the existing rules in regard to the acquisition of land for State Railways, to be observed by Engineers.

Circular No. 7 Railway.

GOVERNMENT OF INDIA, PUBLIC WORKS DEPARTMENT.

Simla, May 14th 1884.

Rules for the acquisition of land for State Railways.

Read again—

Circular No. 10 Railway, dated 25th August 1871.

Circular No. 21 Railway, dated 12th October 1881.

Read also—

Letter from the Government of the Punjab, No. 123, dated 3rd March 1884.

RESOLUTION.—It having been pointed out that the rules for the acquisition of land, as prescribed in the Railway Circular No. 21 of the 12th October 1881, above quoted, are liable to be misunderstood as regards the distinctions to be observed between land required permanently and land required temporarily, the Government of India is pleased to direct that the following revised rules be observed in future.

RULES.

I.—The general course of procedure laid down in the Public Works Code, Chapter XV, paragraph 92, is to be followed on State Railways.

II.—Railway officers shall not obtain possession of land, whether by purchase, lease, or on simple toleration, except through the proper Revenue authorities.

III.—Engineers in preparing land plans for submission will divide their applications under two heads, *viz* :—

- (a) *Land required permanently or land necessary for the railway when it is opened for public traffic, and when the works of construction are finished.*—Such lands are the sites of bridges, embankments, cuttings, fences, and other works, the cess or berm introduced for the sake of safety between the limit of the works and the adjacent spoil-bank, bazar, or side-cutting; roads permanently required

such as those immediately in the neighbourhood of stations, over-bridges, under-bridges, or level-crossings on the railway; land or water required for the water-supply; land wanted for the preparation and reception of such materials as are used in maintenance, as ballast pits; land for the permanent diversion of water-courses, all space permanently required at the stations, whether for traffic, storage, workshops, dwellings, or recreation, and also, as a general rule, land required for side-cuttings and spoil-banks.

- (b) *Land required temporarily or land necessary to be taken up, but not permanently wanted.*—Such land will be for side-cuttings and spoil banks, for roads, for access to works while in progress, but which will subsequently be abandoned; for the preparation and reception of materials used in constructing the railway, as brick-fields, quarries, ballast pits, or the temporary diversions of streams and highways. The sites of such dwellings as will be occupied only during construction will also come in this class.

IV.—The land to be taken up permanently for the through line of railway will be, in the first instance, sufficient for a double line, so as to allow of a cart-road to exist parallel to the railway *inside* the fence. This road will be useful not only during construction for service purposes, but afterwards for access to the stations, for maintenance purposes, and for stacking materials.

V.—The enclosed sections, *which are not intended to be used as a type for fencing, but merely as an illustration showing the amount of land to be taken up*, shew the widths to be allowed for different purposes, and the relative position of the road, fence and ditch with reference to the railway. The boundary of the railway land permanently acquired is in every case to be considered as the outside edge of the ditch. Beyond the ditch a clear space or berm of not less than 6 feet must be left free from the spoil-bank or side-cutting nearest to the railway, the cutting or bank being sloped off at an angle of not less than 2 to 1 to prevent any encroachment on this berm from the effects of weather. It will be seen from the section that the width of land to be permanently required for a line on the 5 feet 6 inch gauge will be for embankments 70 feet, for cuttings 76 feet, in addition to the width required in each case for the bases of the slopes. For a line on the metre gauge the widths will be: embankments 64 feet, for cuttings 70 in addition to the slopes.

VI.—Land for side-cuttings and spoil-banks will, as a rule, be permanently taken up by Government, and subsequently disposed of when no longer required. Estimates will provide and be sanctioned for the full cost of purchase, and should also exhibit the sum which it is estimated may be realized by the ultimate sale of the land.

Embankments under 3 feet in height will only require side-cutting on one side of the railway. Slopes of side-cutting will be generally 2 to 1 all round, but care must be taken to provide for exceptional cases when a flatter slope may be needed. Similarly, the contents of cuttings under 3 feet high will be laid to spoil on one side only. Side-cuttings should not be too deep; a depth of 6 feet may be estimated for in calculating the width of land required for side-cuttings. They should be formed into well-defined tanks of moderate length; and should not, as a rule, be connected with each other or with adjacent water-courses. Valuable land should not be taken up for side-cuttings or for temporary purposes. A sufficient water-course should be provided at right angles to the centre line of railway for each culvert or bridge, and on either side of this water-course land will be left clear of the side-cuttings sufficient to prevent the water from the river running into the side-cuttings. The precaution of leaving land uncut in this manner is necessary to prevent the formation of a dangerous stream parallel to the railway.

VII.—In the neighbourhood of towns or other places where land is above the ordinary values, the width of land to be taken for slopes, fence, &c., must be specially considered to secure economy.

VIII.—All land will be applied for in continuous portions, and shown when practicable, mile by mile or village by village, on each sheet. The plans will be drawn to a scale of 150 feet to an inch; the centre line of railway will be shown divided into chains of 100 feet, and all dimensions will be figured in feet. The name of each zillah, pargannah, and mauzah will be shown on each sheet. On curves the tangential point on the centre line will be marked and the radius of curvature given. The areas in acres, roods and poles will be recorded in accordance with fiscal divisions in a schedule (from the same as that issued with Circular No. 10 Railway of 1871), showing in detail the class to which the land belongs, and the purpose to which it is to be devoted. Land required *permanently* will be colored pink; land required for temporary occupation will be colored yellow; although, as pointed out in Rule VI., it will, as a rule, be acquired by Government permanently.

IX.—Detached portions of land should be referred to some fixed point on one of the main sheets, with distances and compass or other bearings, or such reference to the published maps of the neighbourhood as will ensure a ready identification of the land. A corresponding entry should be made on the main sheet to draw attention to the detached plot.

X.—As a general rule, three complete sets of land plans and schedules will suffice for record, viz., one for the Engineer in charge of the railway, one for the Local Government or Administration, and one for the revenue authorities; but should more be required, they will be supplied by Railway Engineers.

XI.—The general correctness of the plans and schedules submitted by the Railway Engineer in charge being attested by the Engineer-in-Chief or Manager of the State Railway, the application will be forwarded to the revenue authorities, and will be dealt with by them under the orders of the Local Government or Administration.

XII.—The land plans and schedules will be rectified from time to time as changes occur, and Local Governments will see that a correct register of all railway lands is maintained.

XIII.—When land is no longer required for the railway, it will be re-transferred to the revenue authorities and disposed of by them. All contemplated changes in the land occupied by a railway should be reported to the Local Government; and it will be for the latter to see that the necessary steps are taken by the revenue authorities for entering such changes in their records and for carrying out all further requisite proceedings.

XIV.—In Native States all land will be obtained through the Political Agent, and the distinction of temporary and permanent need not be observed; but this will not make it the less incumbent on the officials concerned to see that all land not permanently required for the purposes of the railway is restored when no longer wanted, and to keep as complete records of the land retained for railway purposes in Native States as in British territory. Such plans and schedules as the Political Agent may require will be supplied by the Railway Engineers.

ORDER—Ordered, that the above rules, together with the revised general cross-sections referred to in Rule 5 showing widths of land to be taken up for 5' 6" gauge and metre

The Governments of Madras, Bombay, Bengal, the North-Western Provinces and Oudh and the Punjab.

The Chief Commissioners, Central Provinces, British Burma, and Assam

The Residents, Hyderabad and Mysore.

The Agents, Governor-General, Rajputana, Central India and Biluchistan.

The Director-General of Railways.

The Consulting Engineers to the Government of India for Guaranteed Railways.

gauge State Railways, be forwarded to the Local Governments, Administrations, and officers marginally noted, for information and guidance.

LIV.—No disbursements on account of land acquired for State Railways by the Civil authorities are to be made by the Executive Engineers, but by the Deputy Commissioner. This is provided for by Section 40 of the Act as regards land acquired under the Act; the above ruling covers cases in which it has been acquired by private negotiation.

LV.—The lands occupied for State Railways are to be entered in a register in all respects similar to that prescribed under Chapter II for Guaranteed Railways, and the form and explanation there given are equally applicable to Railways of both classes, except that in the case of State Railways there will be no lands under classes C and D prescribed for Guaranteed Railways.

CHAPTER IV.—MILITARY PURPOSES.

LVI.—The annexed order of the Government of India, No. 29, dated 16th March 1878, regarding the procedure to be observed in taking up land for military purposes, is circulated for information and guidance.

LVII.—A previous order circulated by the Punjab Government, intimating that the sanction of the Government of India is necessary before land can be taken up for military purposes, is likewise republished herewith.

Government of India, Public Works Department, Circular No 29, dated 16th March 1878.
MILITARY WORKS.

1. When land is required by the Military Department for extension of cantonments, rifle-ranges, or similar purposes, the required area will be taken up by an officer of the Public Works Department, and the general procedure laid down in the Public Works Code, Chapter

XIII, Section I, para. 14. will be followed in all cases where applicable, and no land shall be entered upon except with the permission of the Revenue or Civil officer of the district in which it is situated.

2. A schedule (in the accompanying form, *vide* Appendix XI) of the land taken showing *Pink denoting permanent, the purposes for which it is required and whether the occupation is permanent or temporary will accompany the land plans, which will show in distinctive colors* the area required.

The cost of the land thus taken up through the agency of the Public Works Department will fall on the Military Department.

As a general rule, 4 copies of the plan and schedule will be required—

- 1 copy for record.
- 1 copy to be forwarded to the Revenue or Civil officer of the district.
- 1 copy for the Assistant Quartermaster-General of the division or district.
- 1 copy for the Quartermaster General of the Army (to be forwarded through the Officer Commanding the division or district).

Government, Punjab, Financial Department.

CIRCULAR No. 3 -43, DATED 15TH JANUARY 1877.

COPIES of the following forwarded to all Commissioners and Deputy Commissioners for information and guidance, also to Financial Commissioner with reference to his No. 1290, dated 16th ultimo :—

No. 1197 S., dated Simla, the 31st October 1876.

From—Colonel H. K. BURNE, Secretary to the Government of India, Military Department,
To—The Quartermaster-General in India.

I AM directed to state, for the information of the Commander-in-Chief, that the Government of India consider it desirable that more explicit rules should be laid down for the guidance of local Military authorities in regard to the acquisition of land for military purposes. I am therefore to request that His Excellency may be moved to consider the suggestions submitted by the Controller of Military Accounts, and to have prepared, for the concurrence of the Government of India, an order prohibiting on the part of local Military authorities any action which would in any way compromise the Government in regard to the acquisition of such land, until their sanction had been obtained through His Excellency the Commander-in-Chief.

3. Local Governments will be requested to take no steps for the taking up of land for military purposes without the previous authority of the Government of India.

LVIII.—The annexed order of the Government of India, regarding the acquisition of land by the Military Department for elephant hunting, &c., was published as paragraph 7 of Resolution No. 371, dated 24th January 1880.

Extract para. 7 from a Resolution of the Government of India, Military Department, No. 371, dated 24th January 1880.

7. In future, therefore, when the Military authorities desire to appropriate any lands for elephant hunting, grass preserves, or other commissariat purposes, they should submit to the Local Government in the Revenue Department a well considered estimate of the profit which they expect to derive from the measure. It will be the duty of the Local Government in the Revenue Department thereupon to take into account the revenue which would be sacrificed, and to decide whether the State occupation of the land is or is not expedient.

LIX.—The following orders regarding the acquisition of land for encamping-grounds are republished after revision in accordance with the provisions of Rule XVI for guidance :—

1. When it is proposed to acquire land for a new encamping-ground or for the extension of an existing encamping-ground, the local Military authorities will, after reference to the Deputy Commissioner, send up proposals for acquisition through their own district to the Commander-in-Chief. Deputy Commissioners are required to assist the Military authorities as far as they may desire by supplying them with information as to the area, title, and estimated value of the land and other similar matters.

2. If, when the Commander-in-Chief has sanctioned the proposals submitted to him, it is desired that the land should be acquired under the Act, the local Military authorities will request the Deputy Commissioner to move Government to publish a Gazette Notification under Section 6 of the Act, and on publication of this the Deputy Commissioner will proceed to take steps to acquire the land in the usual way, and on acquisition will make it over to the local Military authorities. Before issuing a notification for the acquisition of the land, the Local Government will first obtain the sanction of the Government of India in the Military Department (letter of Government of India, Military Department, No. 1197 of 31st October 1876, paragraph 3).

3. When the land has been finally acquired the Military authorities will arrange with the local Public Works Officers for the erection of proper boundary marks and the future maintenance of the encamping-ground.

APPENDICES.

APPENDIX I.

Notification by Government in Gazette under Section 4.

WHEREAS it appears to the Lieutenant-Governor of the Punjab and its Dependencies that land is likely to be required by Government for a public purpose, namely ——— it is hereby declared that for the said purpose the undermentioned land is likely to be required.

This declaration is made under the provisions of Section 4 of Act X of 1870.

Dated

Secretary to Government.

Specification of Land.

District.	Parganah.	Mauzah.	Area.	Direction.	Boundaries.

APPENDIX II.

Notification by Government in Gazette under Section 6.

WHEREAS it appears to the Lieutenant Governor of the Punjab and its Dependencies that land is required by Government for a public purpose, namely ———, it is hereby declared that the undermentioned land is required for the said purpose.

This declaration is made under the provisions of Section 6 of Act X of 1870.

Dated

Secretary to Government.

Specification of Land.

District.	Parganah.	Mauzah.	Area.	Direction.	Boundaries	Place where the plan may be inspected.

APPENDIX III.

Notice to persons interested in the Land, under Section 9.

WHEREAS the under-mentioned land is about to be taken up for a public purpose, namely ——— under notification of the Punjab Government No. ——— published in the *Punjab Gazette* of ——— all persons interested in the said land are hereby called upon to attend personally or by agent at (place) ——— on the ——— (date) at ——— o'clock to state the nature of their respective interests in the land, and the amount and particulars of their claims to compensation for such interests.

This notice is issued under Section 9 of Act X of 1870.

Dated

Deputy Commissioner.

